

Mr. CULBERSON. I will say to the Senator that probably he will be accommodated in that respect, also.

Mr. ALDRICH. I think it very important that should be done, if there is to be any credence given to it.

Mr. OVERMAN. Did the Senator from Rhode Island make his statement himself, or did he have an expert make it?

Mr. ALDRICH. It was made under my direction.

Mr. OVERMAN. Of course. Who was the expert?

Mr. ALDRICH. Major Lord.

Mr. OVERMAN. Is he a man from the Treasury Department?

Mr. ALDRICH. No, sir; he is not.

Mr. OVERMAN. He is a major in the army, I believe.

Mr. ALDRICH. He is a major in the army, but he has more knowledge on this subject than almost any other man I know. He was Mr. Dingley's clerk in the preparation by the Ways and Means Committee of the existing law; and I think he is better qualified to make a statement of this kind than any other man within my knowledge.

The PRESIDENT pro tempore. The Chair hears no objection to the request of the Senator from Texas that the statement he presents be printed in the RECORD.

The matter referred to is as follows:

Articles, as shown in the United States Statistics of Imports, affected by the Senate bill.

Schedule—	Lower duties.	Higher duties.	Same duties.
A.....	58	15	145
B.....	31	4	126
C.....	167	29	92
D.....	15	3	26
E.....	2	—	49
F.....	—	—	15
G.....	8	23	198
H.....	—	105	14
I.....	20	70	168
J.....	14	10	58
K.....	—	—	87
L.....	8	31	24
M.....	4	9	42
N.....	29	17	227
Total.....	356	316	1,271
Total articles.....	—	—	1,943
Per cent.....	18.3	16.3	65.4

* Paragraph 336 covers threads of fibers, and includes 159 different "lea" or sizes.

Mr. ALDRICH. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Thursday, May 6, 1909, at 11 o'clock a. m.

SENATE.

THURSDAY, May 6, 1909.

The Senate met at 11 o'clock a. m.

Prayer by Rev. Ulysses G. B. Pierce, of the city of Washington. The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented the petition of Hinchman, Vezin & Co., of New York City, N. Y., praying for the retention of the proposed duty on hosiery, which was ordered to lie on the table.

He also presented a petition of the Jewelers' Board of Trade, of New York City, N. Y., praying for the creation of a non-partisan tariff commission, which was ordered to lie on the table.

He also presented petitions of sundry citizens of Kentucky, Oklahoma, Indiana, New York, and West Virginia, praying for a reduction of the duty on raw and refined sugars, which were ordered to lie on the table.

He also presented a memorial of sundry citizens of New York City, N. Y., and of New Haven and Meriden, in the State of Connecticut, remonstrating against an increase of the duty on imported gloves, which was ordered to lie on the table.

Mr. SHIVELY presented petitions of sundry citizens of Russellville, Newcastle, South Manchester, Sandborn, Carmel, New Albany, Kempton, Williamsburg, New Richmond, Madison, Evansville, Richmond, Columbus, Frankfort, Worthington, Hebron, Auburn, Logansport, Piercetown, Kokomo, Dana, Carrollton, and Delphi, all in the State of Indiana, praying for the removal of the duty on raw hides, which were ordered to lie on the table.

He also presented petitions of sundry citizens of Tell City, Hazelton, Scotland, New Augusta, Indianapolis, Haughville,

Clearmont, Rome City, Wawaka, Greensburg, Troy, Columbus, Story, Elwood, Balbec, Hammond, Spencer, College Corner, Vincennes, Fort Wayne, Connersville, and Odon, all in the State of Indiana, praying for a reduction of the duty on raw and refined sugars, which were ordered to lie on the table.

Mr. BURTON presented petitions of sundry citizens of Mansfield, Millersburg, Cincinnati, Akron, Columbus, Worthington, Glouster, Mount Vernon, Fairport Harbor, and Cleveland, all in the State of Ohio, praying for a reduction of the duty on raw and refined sugars, which were ordered to lie on the table.

Mr. SIMMONS presented petitions of sundry citizens of Dublin, White Oak, Kenston, Lumberton, Richardson, and Elizabethtown, all in the State of North Carolina, praying for a reduction of the duty on raw and refined sugars, which were ordered to lie on the table.

Mr. PERKINS presented petitions of sundry citizens of Placerville and Exeter, in the State of California, praying for a reduction of the duty on raw and refined sugars, which were ordered to lie on the table.

He also presented a memorial of the Independent Oil Producers' Agency, of Bakersville, Cal., remonstrating against the removal of the countervailing duty on petroleum and its products, which was ordered to lie on the table.

He also presented a petition of sundry citizens of Los Angeles, Cal., employed in the lithographic industry, praying for an increase of the duty on lithographic products, which was ordered to lie on the table.

Mr. DICK presented a petition of sundry citizens of Brecksville, Ohio, praying for the passage of the so-called "rural parcels post" and "postal savings banks" bills, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of sundry petroleum producers of Spencerville, Ohio, praying for the imposition of a duty of 50 per cent ad valorem on crude petroleum, which was ordered to lie on the table.

Mr. HALE presented petitions of sundry citizens of Bangor, Bridgeton, Dexter, Newport, North Berwick, and Old Town, all in the State of Maine, praying for a readjustment of the wool schedule to remedy the inequalities detrimental to the carded woolen industry, which were ordered to lie on the table.

He also presented a petition of Winn Grange, Patrons of Husbandry, of Winn, Me., praying for the passage of the so-called "parcels post bill," which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of Winn Grange, Patrons of Husbandry, of Winn, Me., remonstrating against the duty on sulphate of ammonia and potash, which was ordered to lie on the table.

He also presented a memorial of B. L. Glover and sundry other citizens of Maine, remonstrating against the proposed increase of the duty on imported gloves, which was ordered to lie on the table.

He also presented petitions of sundry citizens of Bangor, Bowerbank, Presque Isle, and Sebec, all in the State of Maine, praying for the reduction of the duty on raw and refined sugars, which were ordered to lie on the table.

Mr. DEPEW presented petitions of sundry citizens of King Ferry, Poplar Ridge, Sherwood, Aurora, Ludlowville, Hadley, and Luzerne, all in the State of New York, praying for a reduction of the duty on raw and refined sugars, which were ordered to lie on the table.

He also presented memorials of sundry citizens of New York City, N. Y., remonstrating against an increase of the duty on imported razors, which were ordered to lie on the table.

He also presented a petition of J. F. Bingham Lodge, No. 155, Brotherhood of Locomotive Firemen, of New York City, N. Y., praying for the enactment of legislation providing for the inspection of locomotive boilers and their necessary equipment for the safety of the men employed upon them, which was referred to the Committee on Interstate Commerce.

He also presented a memorial of Local Union No. 6S, Cigar-makers' International Union of America, of Albany, N. Y., remonstrating against the repeal of the duty on cigars imported from the Philippine Islands, which was ordered to lie on the table.

He also presented a petition of the board of managers of the New York Produce Exchange, praying for a reduction of the duty on wheat, corn, and oats, which was ordered to lie on the table.

He also presented petitions of sundry citizens of New York, praying for an increase of the duty on lithographic products, which were ordered to lie on the table.

He also presented a memorial of Austerlitz Grange, No. 819, Patrons of Husbandry, of Spencertown, N. Y., remonstrating

against an increase of the duty on imported gloves, which was ordered to lie on the table.

He also presented a petition of the International Gem Company and of the A. & S. Espositor Company, of New York City, N. Y., praying for an increase of the duty on precious stones, which was ordered to lie on the table.

Mr. BRANDEGEE presented petitions of sundry citizens of New Haven, Cromwell, Branford, South Windham, and Plymouth, all in the State of Connecticut, praying for a reduction of the duty on raw and refined sugars, which were ordered to lie on the table.

Mr. PILES presented petitions of sundry citizens of Spokane, Elbe, Minerva, and Falls City, all in the State of Washington, praying for a reduction of the duty on raw and refined sugars, which were ordered to lie on the table.

Mr. FRYE presented a petition of sundry citizens of Sebat-tus, Me., praying that a protective duty be placed on carded wool, which was referred to the Committee on Finance.

BILLS INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BRANDEGEE:

A bill (S. 2275) for the relief of Hyland C. Kirk and others, assignees of Addison C. Fletcher; to the Committee on Claims.

By Mr. NEWLANDS:

A bill (S. 2276) granting a pension to Paul De Chainé; to the Committee on Pensions.

By Mr. GORE:

(By request) A bill (S. 2277) permitting officers, soldiers, seamen, and marines who served in the United States Army for ninety days during the civil war, and who were honorably discharged, to acquire title to certain public lands of the United States, and for other purposes; to the Committee on Public Lands.

A bill (S. 2278) granting a pension to James Young; and

A bill (S. 2279) granting an increase of pension to Basil McClain; to the Committee on Pensions.

By Mr. NIXON:

A joint resolution (S. J. R. 35) providing for the erection of a statue of the late Hon. William M. Stewart, United States Senator from Nevada; to the Committee on the Library.

INTERSTATE-COMMERCE COMMODITIES CLAUSE.

Mr. BAILEY. Mr. President, I desire to introduce a bill to amend what is known as the "commodities clause" of the interstate-commerce act. I have not seen the full text of the recent opinion of the Supreme Court, but I have seen enough to know that it sustains the principle upon which that commodities clause is based, though the decision seems, from what I have seen of it, to hold that the act does not cover all of the cases which I know the author of it intended that it should cover.

It appears from the newspaper reports which I have seen that the court has held that the act does not include the case where a railroad company owns the stock of a corporation which mines or manufactures or produces these articles. The amendment which I now propose is intended to remedy that defect. When drawing that provision of the law I thought that the words "directly or indirectly" covered every possible contingency, and I still think so; but in view of the decision of the court it seems necessary, if the purpose of Congress is to be made effective, that a further amendment to the law shall be proposed and adopted.

The PRESIDENT pro tempore. The bill will be read by title.

The SECRETARY. A bill to amend "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission, as approved June 29, 1906," and so forth.

Mr. BAILEY. I simply want to call attention to the fact that the act as it would be amended will read precisely as the existing law now reads, with the addition of the words "or by any corporation or joint stock company in which it owns or controls, directly or indirectly, any stock or interest."

Mr. CULBERSON. Mr. President, I happen to have a copy of the opinion just alluded to by my colleague, and I ask that the opinion may be printed in the RECORD in connection with the bill he has introduced.

Mr. KEAN. I ask also that it be printed as a document.

Mr. CULBERSON. I have no objection to that.

Mr. BAILEY. Mr. President, as the full text of the court's opinion is now available, I will, with the permission of the Senate, withdraw the bill which I have just introduced until I can carefully read exactly and completely what has been said

and thus make it certain that I meet the requirements of the law as well as of industrial conditions.

The PRESIDENT pro tempore. Does the Senator from Texas withdraw his bill?

Mr. BAILEY. I desire to withdraw it until I can have the opportunity to examine the opinion.

The PRESIDENT pro tempore. No objection being heard, the bill is withdrawn.

Mr. CULBERSON. It is the understanding, then, that the opinion will be printed in the RECORD and as a document?

The PRESIDENT pro tempore. The Senator from Texas asks that the opinion may be printed in the RECORD and also as a Senate document. The Chair hears no objection, and the order is made.

The matter referred to is as follows:

[Senate Document No. 37. Sixty-first Congress, first session.]

RAILROAD RATE LAW.

Supreme Court of the United States. October term, 1908. Nos. 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, and 570.

In error to the circuit court of the United States for the eastern district of Pennsylvania: 559. The United States ex rel. The Attorney-General of the United States, Plaintiff in Error, v. The Delaware and Hudson Company. 560. Same v. Erie Railroad Company. 561. Same v. The Central Railroad Company of New Jersey. 562. Same v. Delaware, Lackawanna and Western Railroad Company. 563. Same v. The Pennsylvania Railroad Company. 564. Same v. Lehigh Valley Railroad Company.

Appeals from the circuit court of the United States for the eastern district of Pennsylvania: 565. The United States, Appellant, v. The Delaware and Hudson Company. 566. Same v. Erie Railroad Company. 567. Same v. The Central Railroad Company of New Jersey. 568. Same v. Delaware, Lackawanna and Western Railroad Company. 569. Same v. The Pennsylvania Railroad Company. 570. Same v. Lehigh Valley Railroad Company.

(May 3, 1909.)

Mr. Justice White delivered the opinion of the court.

We dismiss for the present a contention made by one of the corporations that it is not a railroad company within the meaning of that term as used in the statute, which we shall have occasion to consider, because it is merely a coal company whose transporting operations are but incidental to its mining operations. With this contention put aside, it is true to say, speaking in a general sense, that the corporations, parties to this record, by means of railroads owned and operated by them, were engaged in transporting coal from the anthracite coal fields in Pennsylvania to points of market for ultimate delivery in other States. With much of the coal so transported, the corporations had been or were connected by some relation distinct from the association which was necessarily engendered by the transportation of the commodity by the corporations as common carriers in interstate commerce. While the business of the corporations, generally speaking, had these characteristics, there were differences between them. Some of the corporations owned and worked mines and transported over their own rails in interstate commerce the coal so mined, either for their own account or for the account of those who had acquired title to the coal prior to the beginning of the transportation. Others, while operating railroads, not only owned, but also leased and operated coal mines, and carried the coal produced from such mines in the same way. Again, others of the railroad companies, although not operating mines, were the owners of stock in corporations engaged in mining coal, the coal so produced by such corporations being carried in interstate commerce by the railroad companies holding the stock in the producing coal companies, either for account of the producing corporations or for persons to whom the coal had been sold at the point of production prior to the beginning of interstate commerce. This, moreover, was, additionally, the case as to some of the railroad companies who, as we have previously stated, were engaged both in the production of coal from mines owned by them and in interstate transportation of such product. All the attributes thus enjoyed by the corporations had been possessed by them for a long time, and were expressly conferred by the laws of Pennsylvania, and, in some instances, also by the laws of other States, in which the companies likewise, in part, carried on their business. We insert in the margin a summary which the court below made concerning the situation of the respective corporations, taken from the answer or return made by each corporation:

"It is admitted, generally, by the defendants that the allegations in the bills and petitions, as to their corporate existence, are true, and that they own or operate railroads engaged in the interstate transportation of coal from the anthracite region of Pennsylvania. They also admit that this transportation has been carried on by the several defendants long prior to the 8th day of May, 1908, and in the case of some of them for a period varying from a quarter to more than half a century prior thereto. In addition to these general admissions, detailed statements are made by the defendants, respectively, of the character and extent of the ownership or other interests possessed by them in the coal so transported, or in the lands or mines from which it is produced. It is only necessary to briefly summarize these statements:

"(1) The Delaware and Hudson Company alleges that it directly owns its coal lands as it does its railroad; that it was incorporated by an act of the legislature of the State of New York, April 23, 1823, and was authorized to construct a canal or water navigation from the anthracite coal district in Pennsylvania to the Hudson River in New York; to purchase lands in Pennsylvania containing stone or anthracite coal; and to employ its capital in the business of transporting to market coal mined from such lands. That this authority was also expressly conferred by acts of the legislature of the State of Pennsylvania between the years 1823 and 1871, and that these acts of the State of Pennsylvania resulted from the desire and policy of said State to create and foster the industry of mining such coal and developing the transportation thereof; that under the authority of these statutes of Pennsylvania and of New York the said defendant, beginning as early as the year 1825, invested its capital in the purchase of a large quantity of coal lands in the State of Pennsylvania and in the construction of canal navigation in Pennsylvania from the Delaware River to the Hudson River; that later, under statutes of both States, it invested additional capital in the construction of railroads in the State of Pennsylvania, and in the construction and acquisition of railroads and leasehold estates in the State of

New York, for the same general purpose of transporting coal from the coal lands owned by it; that it has invested large sums of money, not only in the acquisition of coal property, but in the erection of structures for mining and terminal facilities; that some of its coal properties were acquired under leases upon royalties payable to the lessors for each ton of coal mined, the leases fixing large minimum amounts by way of rent; that large fixed rentals are required to be paid, not only for those mining lands, but for railroads acquired for the purpose of transporting coal; that there are three coal companies whose shares are practically all owned by it, viz, the Northern Coal and Iron Company, the Jackson Coal Company, and the Hudson Coal Company; that its mining lands thus owned and acquired are located upon or contiguous to the railroads of defendant; that said railroads are the only reasonable, practical, and conveniently available avenues of transportation whereby the coal by it produced can be transported in interstate commerce, and the coal mined by the defendant and by said coal companies upon its lines of railroad amounts approximately to 70 per cent of the entire transportation by it, or to about 4,300,000 gross tons, its daily shipments averaging about 12 trains of 37 coal cars each; that the coal lands so acquired by the defendant and by said three coal companies would have little, if any, value except for the mining of coal therefrom and its sale as a commercial commodity, and that if it is deprived, by virtue of the said act of Congress, of the right to transport said coal, it will be deprived of the only possible enjoyment of its property. It further avers that it is not a railroad company within the meaning of the act of Congress, but that it is a coal company, and that since the year 1870 it has become, incidentally to its business as a coal-mining company, a common carrier by railroad of passengers and property.

"It is further averred, as a special ground of defense by the said Delaware and Hudson Company, that this said 'commodities clause' does not apply to it because all the coal mined by it upon its own lands and upon the lands of the said three coal companies (except as to steam sizes, as thereafter stated) 'is sold before transportation thereof begins by said company to third persons at the mines in Pennsylvania from which such coal has been produced, and that said company does not, at the time when the same is so transported by it in interstate commerce, own the same nor any interest therein, direct or indirect, apart from its obligation and rights as a common carrier in the transportation thereof, and that it carries said coal for the account of the purchaser thereof, who is the consignor and owner of said coal.'

"(2) The answer of the Erie Railroad Company states that it was originally organized under the laws of the State of New York in 1832; that it has been reorganized from time to time under mortgage foreclosure; and finally, in November, 1895, under a foreclosure sale, it was reorganized under the statutes of New York, whereby it 'became the lawful owner of the property, rights, privileges, immunities, and franchises of all its predecessors aforesaid, including the shares of capital stock of coal companies and of railroad companies, as well as the railroads theretofore held and possessed by said predecessor companies, the railroads so owned by it and its said subsidiary companies, having an aggregate mileage of over 2,100 miles in the States of New York, Pennsylvania, New Jersey, Ohio, Indiana, and Illinois; that the Pennsylvania Coal Company was created a corporation by the laws of Pennsylvania in 1838, its charter giving it the right of 'transacting the usual business of companies engaged in mining, transporting to market, and selling coal and the other products of coal mined; and for that purpose it was given the power to purchase or lease coal lands in Pennsylvania; also the power to construct railroads with one or more tracks. In 1853 the said Pennsylvania Coal Company was authorized to extend its railroad to connect with the New York and Erie Railroad. The right of said Pennsylvania Coal Company to buy coal lands and build railroad connections was continued by acts of the legislature of Pennsylvania in 1857, 1864, 1867, and 1868; that in pursuance of these various acts of the legislature the Pennsylvania Coal Company obtained capital, issued stock therefor, acquired coal lands, developed coal mines, produced, transported to markets, and sold coal; built and operated railroads, made railway connections as authorized, and did other like acts to promote the business of supplying all persons needing the same with anthracite coal. The Hillside Coal and Iron Company was organized by an act of the legislature of the State of Pennsylvania in 1869 for the purposes and with powers similar to those of the Pennsylvania Coal Company. Under authority of acts of the legislature of Pennsylvania the said Erie Railroad Company, long prior to the passage of said amendment to the interstate-commerce act, acquired substantially all the capital stock of said Pennsylvania Coal Company, the Hillside Coal and Iron Company, the Jefferson Railroad Company, and Erie and Wyoming Railroad Company, and a small minority of the stock of the Temple Iron Company, and has pledged the same under various mortgages, pursuant to which have been issued and are now outstanding bonds for large sums, aggregating many millions of dollars, which bonds are held by purchasers in good faith and for value throughout the world; that for many years prior to May 1, 1908, it has been engaged in transporting the coal of said corporations to markets outside the State of Pennsylvania, many of which can only be reached from the railroad lines of this defendant; that the coal so transported amounts annually to several millions of tons and constitutes 22 per cent of the entire freight tonnage of this defendant, the Erie Company. It also denies that it is, by reason of the ownership of said stock in said companies, the owner, in whole or in part, of the coal transported by it in interstate commerce, or that it has or had any interest, direct or indirect, therein, and therefore has not violated or failed to comply with the so-called 'commodities clause' of the interstate-commerce act.

"(3) The Central Railroad Company of New Jersey avers that it was organized under the laws of the State of New Jersey, and by these laws was authorized to purchase and hold the stock or securities of any other corporation, of New Jersey or elsewhere, and that it was also so authorized by two acts of assembly of the State of Pennsylvania, one of which, approved April 15, 1869, was entitled 'An act to authorize railroad and canal companies to aid in the development of coal, iron, lumber, and other material interests of this Commonwealth; that pursuant to the authority of these several acts, it had long prior to the said act of Congress become the owner of a majority of the shares of the capital stock of the Honeybrook Coal Company and of the Wilkesbarre Coal and Iron Company, both companies now being merged into the Lehigh and Wilkesbarre Company, a large majority of whose shares are owned by it; that it also owns a minority of the shares of the Temple Iron Company; that in 1871 it became the lessee of the Lehigh and Susquehanna Railroad, a Pennsylvania corporation, which it has ever since operated under an obligation to pay a yearly rental of not less than \$1,414,400, and not to exceed \$2,043,300 per annum; that its gross earnings from the transportation of coal amounted, for the year ending June 7, 1907, to \$9,312,268.04, being 48 per cent of its entire freight receipts; and that a large part of its earnings from

freight and miscellaneous passenger traffic is incident to and dependent upon the operation of the mines and collieries of said coal companies; and that the greater part of its earnings from transportation of coal comes from its carriage of the coal mined by the Lehigh and Wilkesbarre Coal Company; and that large sums of money have been expended by it in extending its lines and in constructions to enable it to transport said coal in interstate commerce.

"(4) The Delaware, Lackawanna and Western Railroad Company, like the Delaware and Hudson Company, admits that it is the owner of coal lands and mines coal, which it sells; that it was organized under an act of the legislature of Pennsylvania in 1849; that all the lines of railroad owned by it are wholly within the State of Pennsylvania, extending from the Delaware River, at the boundary line of the State of New Jersey, in a northwesterly direction across the State of Pennsylvania to the boundary line between the State of Pennsylvania and the State of New York, with a branch line extending from Scranton, in the State of Pennsylvania, to Northumberland, in said State. Said defendant also admits and alleges that, under express authority of acts of the legislature of the States of Pennsylvania, New Jersey, and New York, it, as lessee, now operates, and long prior to May 1, 1908, has operated, various lines of railroad in the two last-mentioned States, by which it has direct traffic connection with the city of Buffalo and other cities in the said States. Defendant also admits that for many years it has owned in fee extensive tracts of coal land in the State of Pennsylvania; that it has also leased large tracts of coal land in the said State, and is now engaged, and for many years last past has been engaged, in mining coal from the lands so owned and leased by it; that the holding of said lands, whether in fee or by lease, and the mining, manufacture, and interstate transportation of the coal therefrom has been and continues to be under and by virtue of the authority of the laws of the State of Pennsylvania.

"That, in addition to the foregoing, certain coal companies, organized from time to time under acts of assembly of the said State of Pennsylvania, have been merged into said defendant corporation; that by an act of the general assembly of the State of Pennsylvania approved April 15, 1869, entitled 'An act to authorize railroad and canal companies to aid in the development of the coal, iron, lumber, and other material interests of this Commonwealth,' the defendant was authorized to aid corporations authorized by law to develop coal, iron, lumber, and other material interests of Pennsylvania, by the purchase of their capital stock or bonds, or either of them. The answer of said defendant also alleges that, by reason of its ownership of said coal lands and coal, and the revenues derived from the transportation of the same to market, it has been enabled to expend millions in the betterment of its general transportation facilities for both goods and passengers, and give to the public the benefits of a well constructed and equipped modern railroad.

"That by virtue of leases of railroads, to enable it to transport coal in interstate commerce, it has become bound to pay yearly, in interest charges, the sum of \$5,155,697, and for taxes \$1,163,916. That out of a total of about 8,700,000 tons of coal produced by it in the year 1907 from its lands owned in fee and leased, upward of 6,700,000 tons were transported over its lines of railroad in interstate commerce; that from 40 per cent to 60 per cent of its annual transportation earnings, from the operation of leased lines, has been derived from the carriage of its own coal thereover.

"That it uses, in the conduct of its business as a common carrier, approximately 1,700,000 tons of anthracite coal, of pea size or smaller, annually, and will require more for such use in the future; that to obtain this coal in these economic sizes it is necessary to break up coal, leaving the larger sizes, which must be disposed of otherwise; that great waste would result if it were forbidden to transport to market in interstate commerce these larger sizes thus resulting.

"That defendant's rights to acquire its holding of coal land, its rights to own and mine coal and to transport the same to market in other States as well as in Pennsylvania and its leases of other railroads, were acquired many years prior to the enactment of the so-called 'interstate-commerce act,' and of the said amendment thereto known as the 'commodities clause.'

"(5) The answer of the Pennsylvania Railroad Company avers that it was incorporated under the laws of the State of Pennsylvania April 13, 1846; that as early as 1871, under authority of two general statutes of the State of Pennsylvania, it became the owner of all the shares of the Susquehanna Coal Company, of all the shares of the Summit Branch Mining Company, and of one-third of the shares of the Mineral Railroad Mining Company, corporations of the State of Pennsylvania; that since the last-mentioned year, and up to the present time, it has carried the coal produced from the mines of the said coal companies, at lawfully established schedule rates, over its lines of railroad; that approximately 65 per cent of the coal so mined has been carried to destinations outside the State of Pennsylvania; that it mines no coal, but that the coal it carries is mined by the said coal companies, and that it has no interest therein within the meaning of the said act of Congress, either direct or indirect; that the most largely producing of the properties belonging to these coal companies are located either directly upon, or so contiguous to the system of railroads operated by said defendant as to render transportation by any other railroads not reasonably practicable.

"(6) The answer of the Lehigh Valley Railroad Company states that it was originally incorporated September 20, 1847, under the laws of the State of Pennsylvania. Under the authority of various acts of assembly of the said State, other railroad and coal companies, prior to the year 1874, have been merged into it, some of which railroads were expressly authorized to construct railroads and to carry on the business of mining, transporting, and vending coal. It is also the lessee of railroads in Pennsylvania; that by means of its own and of said leased lines of railroad it conducts, and for many years has conducted, an interstate transportation of coal; that since 1872, pursuant to authority conferred by the laws of Pennsylvania, it has also owned the majority of the capital stock of the New York and Middle Coal Field Railroad and Coal Company, a corporation of the State of Pennsylvania; also the entire capital stock of Cox Brothers & Co., a corporation of said State; a minority interest in the capital stock of the Highland Coal Company; a majority of the stock of the Locust Mountain Coal and Iron Company; a minority interest in the capital stock of the Packer Coal Company and of the Temple Iron Company, all corporations of the State of Pennsylvania, organized for the purpose of mining coal, some of them more than a half century ago; that it has constructed lines of railroad and branch railroads and terminal facilities for the purpose of transporting to market, in interstate commerce, the coal of the companies whose shares it owns, and this business has been conducted by it for many years; that practically said coal can be transported to market only by its railroads; that the capital stock of two of the coal com-

panies owned by said defendant has been transferred to a trustee, to hold under a general mortgage executed by defendant, under which mortgage bonds to the amount of \$23,539,000 have been issued by said defendant and are now outstanding in the hands of the public; that the capital stock of Coxie Brothers & Co. (Incorporated), owned by this defendant as aforesaid, has been transferred and assigned to, and is now held by a trustee under a collateral trust agreement executed by said defendant, dated November 1, 1905, for the purpose and upon the terms expressed in said agreement, a copy of which is annexed to said answer, and that bonds to the amount of \$18,000,000 have been issued under said agreement and are now outstanding in the hands of the public; that said defendant transports annually, in interstate commerce, upward of 7,600,000 tons of anthracite coal, shipped by the said coal companies whose stock is owned by said defendant, in whole or in part as aforesaid, and transports annually for said coal companies, wholly within the State of Pennsylvania, upward of 1,500,000 tons; that nearly 42 per cent of its gross annual earnings of \$36,068,431 for the last fiscal year, or \$15,010,899, were derived from coal freights, which represented over 51 per cent of its entire freight tonnage; that the greater part of its gross earnings from coal transportation was received from the coal companies whose shares are by it owned; that the mines and collieries of said coal companies are all so located in the portions of the coal fields tributary to its lines of railroad that no means of transporting their product can be made available, except by defendant's railroads; that the railroad lines of this defendant have been from time to time extended, the control of other railroads acquired, and its facilities and equipment increased at enormous expense, in reliance upon the rights and franchises conferred by the statutes of Pennsylvania aforesaid; that a very large part of defendant's earnings is derived from the freight and passenger traffic incidental to and dependent upon the operation of the mines and collieries of said coal companies, and that if said defendant were deprived of the earnings derived from the transportation of the coal of said coal companies its business could not be continued, except at a net loss of many millions of dollars per annum."

After the 1st day of May, 1908, the Government of the United States commenced these proceedings by bill in equity against each of the corporations, to enjoin each from carrying in interstate commerce any coal produced under the circumstances which we have stated. At the same time a petition in mandamus was filed against each corporation, seeking to accomplish the same result. Both the equity causes and the mandamus proceedings were based upon the assumption that the first section of the act to regulate commerce, as amended and reenacted by the law usually referred to as the "Hepburn Act," approved June 29, 1906 (34 Stat., 584), contained a provision, generally known as the "commodities clause," which caused it to be illegal for the corporations after May 1, 1908, to transport in interstate commerce coal with which the railroad companies were or had been connected or associated in any of the modes above stated. Except as we have said, in the particular that one of the corporations claimed that it was not a railroad company within the meaning of the commodities clause, they all defended substantially upon the ground that when correctly interpreted the commodities clause did not forbid the interstate-commerce traffic in coal by them carried on. If it did, the clause was assailed as inherently repugnant to the Constitution, because the right to enact it was not embraced within the authority conferred upon Congress to regulate commerce. In addition, it was contended that, even if, abstractly considered, the clause might be embraced within the grant of power to regulate commerce, nevertheless its provisions were in conflict with the due-process clause of the fifth amendment to the Constitution, because of the destructive effect which the enforcement of its provisions would produce on the rights of property which the corporations possessed and had long enjoyed under the sanction of valid state laws. It was, besides, insisted that in any event the clause was repugnant to the Constitution, because of the discrimination caused by the exception as to timber and the manufactured products thereof. The cases were submitted on the pleadings, and were heard and decided at one and the same time. Treating the clause as having the meaning which the Government contended for, the court came to consider the alleged repugnancy of the enactment to the Constitution. In the principal opinion the subject was at least formally approached, not for the purpose of deciding whether, inherently, the commodities clause was within the competency of Congress to enact as a regulation of commerce, but whether the provisions of that clause were repugnant to the Constitution because of the destructive effect of its prohibitions upon the vast sum of property rights which the corporations were found to enjoy as a result of valid state laws. In this aspect the issue which the court deemed it was called upon to determine was thus by it epitomized:

"The fundamental and underlying question, however, which presents itself at the threshold of all the cases for our consideration is whether the so-called 'commodities clause' amendatory to the act to regulate commerce, passed January 29, 1906, so far as its scope applies by the universality of its language to the cases here presented, is in excess of the legislative authority granted to Congress by the Constitution. This question must be considered with reference to the Constitution as a whole and in relation to the agreed facts of the several cases. It is therefore necessary to keep in mind the situation as presented by these defendants, the facts set forth in their individual answers as above briefly summarized, and the relevant industrial conditions which being matters of common knowledge may be judicially noticed."

The situation which it was considered should be kept in mind for the purpose of passing upon the constitutional question was thus stated:

"The general situation is that for half a century or more it has been the policy of the State of Pennsylvania, as evidenced by her legislative acts, to promote the development of her natural resources, especially as regards coal, by encouraging railroad companies and canal companies to invest their funds in coal lands, so that the product of her mines might be conveniently and profitably conveyed to market in Pennsylvania and other States. Two of the defendant corporations, as appears from their answers, were created by the legislature of Pennsylvania, one of them three-quarters of a century ago and the other half a century ago, for the expressed purpose that its coal lands might be developed and that coal might be transported to the people of Pennsylvania and of other States. It is not questioned that pursuant to this general policy investments were made by all the defendant companies in coal lands and mines and in the stock of coal-producing companies, and that coal production was enormously increased and its economies promoted by the facilities of transportation thus brought about. As appears from the answers filed, the entire distribution of anthracite coal in and into the different States of the Union and Canada for the year 1905 (the last year for which there is authoritative statistics) was 61,410,201 tons; that approximately four-fifths of this entire production of anthracite coal was transported in interstate commerce over the defendant railroads, from Pennsylvania to markets in other States and Canada, and

of this four-fifths, from 70 to 75 per cent, was produced either directly by the defendant companies or through the agency of their subsidiary coal companies.

"It also appears from the answers filed that enormous sums of money have been expended by these defendants to enable them to mine and prepare their coal and to transport it to any point where there may be a market for it. It is not denied that the situation thus generally described is not a new one, created since the passage of the act in question, but has existed for a long period of years prior thereto, and that the rights and property interests acquired by the said defendants in the premises have been acquired in conformity to the constitution and laws of the State of Pennsylvania, and that their right to enjoyment of the same has never been doubted or questioned by the courts or people of that Commonwealth, but has been fully recognized and protected by both."

It was decided that, as applied to the defendants, the commodities clause was not within the power of Congress to enact as a regulation of commerce (164 Fed., 215). A member of the court dissented and expressed his reasons in a written opinion. Without adverting to all the reasoning expounded in that opinion, we think it accurate to say that in a large and ultimate sense it proceeded upon the assumption that, as the commodities clause provided, to quote the summing up of the opinion, for "the divorce of the dual relation of public carrier and private transporter," it was a regulation of commerce, and as such was within the power of Congress to enact, and when enacted was operative upon the defendants, and therefore required them to conform to the regulation, even although to do so might in some way indirectly affect valid rights derived from prior state legislation.

Judgments and decrees were entered denying the applications for mandamus and dismissing the bills of complaint.

The text of the commodities clause upon which the cases depend is as follows:

"From and after May 1, 1908, it shall be unlawful for any railroad company to transport from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or to any foreign country, any article or commodity, other than timber and the manufactured products thereof, manufactured, mined, or produced by it, or under its authority, or which it may own in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary and intended for its use in the conduct of its business as a common carrier."

The Government insists that this provision prohibits railroad companies from transporting in interstate commerce articles or commodities other than the excepted class, which have been manufactured, mined, or produced by them or under their authority, or which they own or may have owned in whole or in part, or in which they have or may have had any interest, direct or indirect. These prohibitions, it is further insisted, apply to the transportation by a railroad company in interstate commerce of a commodity which has been manufactured, mined, or produced by a corporation in which the transporting railroad company is a stockholder, irrespective of the extent of such stock ownership. This construction of the provision rests not only upon the meaning which the Government insists should be given to its text, but on the significance of the text, as illumined by what it is insisted was the result intended to be accomplished by the enactment of the clause. The purpose, it is contended, was not merely to compel railroad companies to dissociate themselves before transportation from articles or commodities manufactured, mined, produced, or owned by them, etc., but, moreover, to divorce the business of transporting commodities in interstate commerce from their manufacture, mining, production, ownership, etc., and thus to avoid the tendency to discrimination forbidden by the act to regulate commerce, which, it is insisted, necessarily inheres in the carrying on by a railroad company of the business of manufacturing, mining, producing, or owning, in whole or in part, etc., commodities which are by it transported in interstate commerce.

The construction relied on is thus summed up in the argument of the Government: "It (the clause) forbids the carrier, who owns the mines and sells coal, to transport that coal in interstate commerce. * * * This is not trifling with the question. It states the exact fact and the reality." And, in accordance with this principle, the insistence in argument is that it was the duty of the carrier who owned and worked coal mines, or who had stock in such mines, or who owned coal, in order to bring themselves within the law, to dispose absolutely of all their interest in coal-producing property, in whatever form enjoyed, and to cease absolutely from acquiring like rights in the future. It was, doubtless, because of the far-reaching effect of this construction upon the enormous property interests involved which caused the result of the provision to be thus stated in the argument for the Government: "This is undoubtedly a searching and radical law, and was meant to be so." True, the Government, in argument, suggests that the radical result of the statute may be assuaged, without violating its spirit, by limiting its prohibitions so as to cause them to apply only so long as the commodities to which it applies are in the hands of a carrier or its first vendee. But no such limitation is expressed in the statute, and to engraft it would be an act of pure judicial legislation. Besides, to do so would be repugnant to the asserted spirit and purpose of the statute which lies at the foundation of the construction upon which the Government relies.

Let us as a prelude to an analysis of the clause, for the purpose of fixing its true construction and determining the constitutional power to enact it when its significance shall have been rightly defined, point out the questions of constitutional power which will require to be decided if the construction relied upon by the Government is a correct one.

We at once summarily dismiss all the elaborate suggestions made in argument as to the alleged wrong to result from the enforcement of the clause, if it be susceptible of the construction which the Government has placed upon it. We do this because obviously mere suggestions of inconvenience or harm are wholly irrelevant, as they can not be allowed to influence us in determining the question of the constitutional power of Congress to enact the clause.

Let it be conceded at once that the power to regulate commerce possessed by Congress is in the nature of things ever enduring, and therefore the right to exert it to-day, to-morrow, and at all times in its plenitude must remain free from restrictions and limitations arising or asserted to arise by state laws, whether enacted before or after Congress has chosen to exert and apply its lawful power to regulate. For our present purposes, moreover, although we may have occasion to examine the subject hereafter, we entirely put out of view all the contentions based upon the assumption that even, although the provisions of the clause be in and of themselves lawful regulations of commerce, if prospectively applied, nevertheless they can not be so considered, because of their retroactive effect upon the rights of the defendants alleged to have been secured by valid state laws. We further concede for the purpose of the inquiry we are at present making,

although we may also have occasion to examine the subject hereafter, that the power of Congress to regulate commerce can be constitutionally so exerted as to compel a railroad company engaged in interstate commerce to disassociate itself in interest from the commodities which it transports in interstate commerce, even although by existing state laws the railroad company may have a lawful right of ownership or association with the commodity upon which the regulation operates.

With these concessions in mind, and despite their far-reaching effect, if the contentions of the Government as to the meaning of the commodity clause be well founded, at least a majority of the court are of the opinion that we may not avoid determining the following grave constitutional questions: (1) Whether the power of Congress to regulate commerce embraces the authority to control or prohibit the mining, manufacturing, production, or ownership of an article or commodity, not because of some inherent quality of the commodity, but simply because it may become the subject of interstate commerce. (2) If the right to regulate commerce does not thus extend, can it be impliedly made to embrace subjects which it does not control, by forbidding a railroad company engaged in interstate commerce from carrying lawful articles or commodities because, at some time prior to the transportation, it had manufactured, mined, produced, or owned them, etc. And involved in the determination of the foregoing questions we shall necessarily be called upon to decide (a) Did the adoption of the Constitution and the grant of power to Congress to regulate commerce have the effect of depriving the States of the authority to endow a carrier with the attribute of producing as well as transporting particular commodities, a power which the States from the beginning have freely exercised, and by the exertion of which governmental power the resources of the several States have been developed, their enterprises fostered, and vast investments of capital have been made possible? (b) Although the Government of the United States, both within its spheres of national and local legislative power, has in the past for public purposes, either expressly or impliedly, authorized the manufacture, mining, production, and carriage of commodities by one and the same railway corporation, was the exertion of such power beyond the scope of the authority of Congress, or what is equivalent thereto, was its exercise but a mere license, subject at any time to be revoked and completely destroyed by means of a regulation of commerce?

While the grave questions thus stated must necessarily, as we have said, arise for decision, if the contention of the Government, as to the meaning of the commodity clause be correct, we do not intend, by stating them, to decide them or even in the slightest degree to presently intimate, in any respect whatever, an opinion upon them. It will be time enough to approach their consideration if we are compelled to do so hereafter, as the result of the further analysis, which we propose to make in order to ascertain the meaning of the commodities clause.

It is elementary when the constitutionality of a statute is assailed, if the statute be reasonably susceptible of two interpretations, by one of which it would be unconstitutional and by the other valid, it is our plain duty to adopt that construction which will save the statute from constitutional infirmity. (*Knights Templars Indemnity Company v. Jarman*, 187 U. S., 197, 205.) And unless this rule be considered as meaning that our duty is to first decide that a statute is unconstitutional and then proceed to hold that such ruling was unnecessary because the statute is susceptible of a meaning, which causes it not to be repugnant to the Constitution, the rule plainly must mean that where a statute is susceptible of two constructions, by one of which grave and doubtful constitutional questions arise and by the other of which such questions are avoided, our duty is to adopt the latter. (*Harriman v. Interstate Commerce Commission*, 211 U. S., 407.)

Recurring to the text of the commodities clause, it is apparent that it disjunctively applies four generic prohibitions; that is, it forbids a railroad carrier from transporting in interstate commerce articles or commodities: (1) which it has manufactured, mined, or produced; (2) which have been so mined, manufactured, or produced under its authority; (3) which it owns in whole or in part; and (4) in which it has an interest, direct or indirect.

It is clear that the two prohibitions which relate to manufacturing, mining, etc., and the ownership resulting therefrom, are, if literally construed, not confined to the time when a carrier transports the commodities with which the prohibitions are concerned, and hence the prohibitions attach and operate upon the right to transport the commodity because of the antecedent acts of manufacture, mining, or production. Certain also is it that the two prohibitions concerning ownership, in whole or in part, and interest, direct or indirect, speak in the present and not in the past—that is, they refer to the time of the transportation of the commodities. These last prohibitions, therefore, differing from the first two, do not control the commodities if at the time of the transportation they are not owned in whole or in part by the transporting carrier, or if it then has no interest, direct or indirect, in them. From this it follows that the construction which the Government places upon the clause as a whole is in direct conflict with the literal meaning of the prohibitions as to ownership and interest, direct or indirect. If the first two classes of prohibitions as to manufacturing, mining, or production be given their literal meaning, and therefore be held to prohibit, irrespective of the relation of the carrier to the commodity at the time of transportation, and a literal interpretation be applied to the remaining prohibitions as to ownership and interest, thus causing them only to apply if such ownership and interest exist at the time of transportation, the result would be to give to the statute a self-annihilative meaning. This is the case since in practical execution it would come to pass that where a carrier had manufactured, mined, and produced commodities, and had sold them in good faith, it could not transport them; but, on the other hand, if the carrier had owned commodities and sold them it could carry them without violating the law. The consequence, therefore, would be that the statute, because of an immaterial distinction between the sources from which ownership arose, would prohibit transportation in one case and would permit it in another like case. An illustration will make this deduction quite clear: A carrier mines and produces and owns coal as a result thereof. It sells the coal to A. The carrier is impotent to move it for account of A in interstate commerce because of the prohibition of the statute. The same carrier at the same time becomes a dealer in coal and buys and sells the coal thus bought to the same person, A. This coal the carrier would be competent to carry in interstate commerce. And this illustration not only serves to show the incongruity and conflict which would result from the statute if the rule of literal interpretation be applied to all its provisions, but also serves to point out that as thus construed it would lead to the conclusion that it was the intention, in the enactment of the statute, to prohibit manufacturing and production by a carrier and at the same time to offer an incentive to a carrier to become the buyer and seller of commodities which it transported.

But it is said, on behalf of the Government, in view of the purpose of Congress to prohibit railroad companies engaged in interstate commerce

from being at the same time manufacturers, producers, owners, etc., of commodities which they carry, despite the literal sense of some of the prohibitions they should all be construed so as to accomplish the result intended, and, therefore, their apparent divergence and conflict should be removed by construing them all as prohibiting the transportation because of the causes stated, irrespective of the particular relation of the railroad company to the commodities at the time of transportation. This suggestion, however, simply invites us, under the assumption that Congress had a particular intention in enacting the clause, to so construe the clause as to cause it to be essential to decide the grave constitutional questions which we have hitherto pointed out. On the contrary, as the prohibitions concerning ownership in whole or in part, and interest, direct or indirect, are susceptible only of the construction that the dissociation of the carrier with the products which it transports was contemplated, our duty is, if possible, to treat the other and apparently conflicting prohibitions as embracing a like purpose, and thus harmonize the provisions of the clause and prevent the necessity of approaching and passing upon the grave constitutional questions which would necessarily arise from pursuing the contrary course. This, it is urged, can not be done, since to do so would be in effect to expunge the prohibitions against manufacturing, mining, and production from the clause, as ownership in whole or in part or interest, direct or indirect, would embrace everything which could possibly have been intended to be expressed by the terms "manufacturing," "mining," and "production," if the proposed reconciliation of the conflict between the prohibitions be brought about. We think, however, that a brief reference to a ruling of this court concerning the effect of the interstate-commerce law, prior to its amendment by the Hepburn Act, will serve to make clear the unsoundness of the proposition. The case referred to is that of the *New Haven Railroad v. Interstate Commerce Commission* (200 U. S., 361). In that case, after much consideration, it was held that the prohibitions of the interstate-commerce act as to uniformity of rates and against rebates operated to prevent a carrier engaged in interstate commerce from buying and selling a commodity which it carried in such a way as to frustrate the provisions of the act, even if the effect of applying the act would be substantially to render buying and selling by an interstate carrier of a commodity which it transported practically impossible. In thus deciding, however, it became necessary (pp. 399, 400) to refer to rulings of the Interstate Commerce Commission construing the act to regulate commerce, made not long after the enactment of the statute, in which it was held that where interstate-commerce carriers were engaged in manufacturing, mining, producing, and carrying commodities in virtue of state charters authorizing them so to do, granted prior to the enactment of the act to regulate commerce, that act could not be applied without confiscation, except in so far as the requirement of reasonableness of rates was concerned. While referring to those administrative rulings, and declaring that in view of their long standing the construction which had been thus given to the act should not be departed from, "at least until Congress has legislated on the subject" (p. 401), it was nevertheless plainly intimated that legislation which compelled a carrier, even although authorized by its charter before the passage of the act to regulate commerce to engage in the production as well as transportation of commodities, to disassociate itself before transportation from the products which it manufactured, mined, or produced, would not, when enforced by proper rules and regulations, amount to confiscation. When, therefore, the subject of ownership, in whole or in part, or the interest of a carrier, direct or indirect, in the product which it transported, came to be considered, and the duty to disassociate before transportation came to be legislatively imposed, it is quite natural, in view of the prior administrative rulings and the intimations of this court, conveyed in the opinion in the *New Haven* case, to assume that the provisions as to manufacturing, mining, and production, while they may be somewhat redundant, were nevertheless expressed for the purpose of leaving no possible room for the implication that it was not the intention to include ownership resulting from manufacture, mining, production, etc., even although the right to manufacture, mine, and produce was sanctioned by state charters prior to the enactment of the act to regulate commerce. Looking at the statute from another point of view the same result is compelled. Certain it is that we could not construe the statute literally without bringing about the irreconcilable conflict between its provisions which we had previously pointed out, and therefore some rule of construction is essential to be adopted in order that the statute may have a harmonious operation. Under these circumstances, in view of the far-reaching effect to arise from giving to the first two prohibitions a meaning wholly antagonistic to the remaining ones, we think our duty requires that we should treat the prohibitions as having a common purpose—that is, the dissociation of railroad companies prior to transportation from articles or commodities, whether the association resulted from manufacturing, mining, production, or ownership, or interest, direct or indirect. In other words, in view of the ambiguity and confusion in the statute we think the duty of interpreting should not be so exerted as to cause one portion of the statute which, as conceded by the Government, is radical and far-reaching in its operation if literally construed, to extend and enlarge another portion of the statute which seems reasonable and free from doubt if also literally interpreted. Rather it seems to us our duty is to restrain the wider, and, as we think, doubtful, prohibitions so as to make them accord with the narrow and more reasonable provisions, and thus harmonize the statute.

Nor is there force in the contention that because the going into effect of the clause was postponed for a period of nearly two years, therefore the far-reaching and radical effects which the Government attributes to the clause must have been contemplated by Congress. We think, on the contrary, it is reasonable to infer, in view of the facts disclosed in the statement which we have previously excerpted, that the delay accorded is entirely consistent with the assumption that it was so granted to afford the time essential to make the changes which would be required to conform to the commands of the clause as we have interpreted it, such as providing the facilities for dissociation by sale at the point of production before transportation or segregation by means of the organization of bona fide manufacturing, mining, or producing corporations.

It remains to determine the nature and character of the interest embraced in the words "in which it is interested directly or indirectly." The contention of the Government that the clause forbids a railroad company to transport any commodity manufactured, mined, or produced, or owned in whole or in part, etc., by a bona fide corporation in which the transporting carrier holds a stock interest, however small, is based upon the assumption that such prohibition is embraced in the words we are considering. The opposing contention, however, is that interest, direct or indirect, includes only commodities in which a carrier has a legal interest, and therefore does not exclude the right to carry commodities which have been manufactured, mined, produced, or owned by a separate and distinct corporation, simply because the transporting

carrier may be interested in the producing, etc., corporation as an owner of stock therein. If the words in question are to be taken as embracing only a legal or equitable interest in the commodities to which they refer, they can not be held to include commodities manufactured, mined, produced, or owned, etc., by a distinct corporation merely because of a stock ownership of the carrier. (*Pullman Palace Car Co. v. Missouri Pacific R. R.*, 115 U. S., 588; *Conley v. Mathieson Alkali Works*, 190 U. S., 406.) And that this is well settled also in the law of Pennsylvania is not questioned. It is unnecessary to pursue the subject in more detail, since it is conceded in the argument for the Government that if the clause embraces only a legal interest in an article or commodity it can not be held to include a prohibition against carrying a commodity simply because it had been manufactured, mined, or produced, or is owned by a corporation in which the carrier is a stockholder. The contention of the Government substantially rests upon the assumption that unless the words be given the meaning contended for they are without significance. That this is clearly not the case is well illustrated by the *New Haven case*, supra. In that case the *Chesapeake and Ohio Railway Company* it was shown at one time not only directly engaged in buying, selling, and transporting coal, but subsequently, when a statute was passed in West Virginia prohibiting such dealings, it resorted to indirect methods for the continuance of its previous practice. It may well be that the very object of the provision was to reach and render impossible the successful employment of methods of the character referred to. Certain it is, however, that in the legislative progress of the clause in the Senate, where the clause originated, an amendment in specific terms, causing the clause to embrace stock ownership, was rejected; and immediately upon such rejection an amendment, expressly declaring that interest, direct or indirect, was intended, among other things, to embrace the prohibition of carrying a commodity manufactured, mined, produced, or owned by a corporation in which a railroad company was interested as a stockholder, was also rejected. (40 Cong. Rec., pt. 7, pp. 7012-7014.) And the considerations just stated we think completely dispose of the contention that stock ownership must have been in the mind of Congress, and therefore must be treated as though embraced within the evil intended to be remedied, since it can not in reason be assumed that there is a duty to extend the meaning of a statute beyond its legal sense upon the theory that a provision which was expressly excluded was intended to be included. If it be that the mind of Congress was fixed on the transportation by a carrier of any commodity produced by a corporation in which the carrier held stock, then we think the failure to provide for such a contingency in express language gives rise to the implication that it was not the purpose to include it. At all events, in view of the far-reaching consequences of giving the statute such a construction as that contended for, as indicated by the statement taken from the answers and returns which we have previously inserted in the margin, and of the questions of constitutional power which would arise if that construction was adopted, we hold the contention of the Government not well founded.

We then construe the statute as prohibiting a railroad company engaged in interstate commerce from transporting in such commerce articles or commodities under the following circumstances and conditions: a. When the article or commodity has been manufactured, mined, or produced by a carrier or under its authority, and at the time of transportation the carrier has not in good faith before the act of transportation dissociated itself from such article or commodity; b. When the carrier owns the article or commodity to be transported in whole or in part; c. When the carrier at the time of transportation has an interest, direct or indirect, in a legal or equitable sense, in the article or commodity, not including, therefore, articles or commodities manufactured, mined, produced, or owned, etc., by a bona fide corporation in which the railroad company is a stockholder.

The question then arises whether, as thus construed, the statute was inherently within the power of Congress to enact as a regulation of commerce. That it was, we think is apparent, and if reference to authority to so demonstrate is necessary it is afforded by a consideration of the ruling in the *New Haven case*, to which we have previously referred. We do not say this upon the assumption that by the grant of power to regulate commerce the authority of the Government of the United States has been unduly limited on the one hand and inordinately extended on the other, nor do we rest it upon the hypothesis that the power conferred embraces the right to absolutely prohibit the movement between the States of lawful commodities or to destroy the governmental power of the States as to subjects within their jurisdiction, however remotely and indirectly the exercise of such powers may touch interstate commerce. On the contrary, putting these considerations entirely out of mind, the conclusion just previously stated rests upon what we deem to be the obvious result of the statute as we have interpreted it; that it merely and unequivocally is confined to a regulation which Congress had the power to adopt and to which all preexisting rights of the railroad companies were subordinated. (*Armour Packing Co. v. United States*, 209 U. S., 56.)

We think it unnecessary to consider at length the contentions based upon the due process clause of the fifth amendment. In form of statement those contentions apparently rest upon the ruinous consequences which it is assumed would be operated upon the property rights of the carriers by the enforcement of the clause interpreted as the Government construed it. For the purpose of our consideration of the subject it may be conceded, as insisted on behalf of the United States, that these contentions proceed upon the mistaken and baleful conception that inconvenience, not power, is the criterion by which to test the constitutionality of legislation. When, however, mere forms of statement are put aside and the real scope of the argument at bar is grasped, we think it becomes clear that in substance and effect the argument really asserts that the clause as construed by the Government is not a regulation of commerce, since it transcends the limits of regulation and embraces absolute prohibition, which, it is insisted, could not be exerted in virtue of the authority to regulate. The whole support upon which the propositions and the arguments rest hence disappears as a result of the construction which we have given the statute. Through abundance of caution we repeat that our ruling here made is confined to the question before us. Because, therefore, in pointing out and applying to the statute the true rule of construction, we have indicated the grave constitutional questions which would be presented if we departed from that rule, we must not be considered as having decided those questions. We have not entered into their consideration, as it was unnecessary for us to do so.

Without elaborating, we hold the contention that the clause under consideration is void because of the exception as to timber, and the manufactured products thereof, is without merit. Deciding, as we do, that the clause, as construed, was a lawful exercise by Congress of the power to regulate commerce, we know of no constitutional limitation requiring that such a regulation when adopted should be applied to all

commodities alike. It follows that even if we gave heed to the many reasons of expedience which have been suggested in argument against the exception and the injustice and favoritism which it is asserted will be operated thereby, that fact can have no weight in passing upon the question of power. And the same reasons also dispose of the contention that the clause is void as a discrimination between carriers.

With reference to the contention that the commodities clause is void because of the nature and character of the penalties which it imposes for violations of its provisions, within the ruling in *Ex parte Young*, (209 U. S., 123), we think it also suffices to say that even if the delay which the clause provided should elapse between its enactment and the going into effect of the same does not absolutely exclude the clause from the ruling in *Ex parte Young*, a question which we do not feel called upon to decide, nevertheless the proposition is without merit, because (a) no penalties are sought to be recovered in these cases, and (b) the question of the constitutionality of the clause relating to penalties is wholly separable from the remainder of the clause, and, therefore, may be left to be determined should an effort to enforce such penalties be made.

There is a contention as to one of the defendants, the Delaware and Hudson Company, to which we, at the outset, referred, which requires to be particularly noticed. Under the charters granted to the company by the States of New York and Pennsylvania it was authorized to secure coal lands and mine coal, and, without going into detail, was originally authorized to construct a canal, and, ultimately, a railroad for the purpose of transporting, for its own account, the products of its mines, and, undoubtedly, vast sums of money have been invested in carrying out these purposes. It is true also that the company is the owner of stock in various coal corporations. The claim now to be disposed of is that by the true construction of its charters the Delaware and Hudson Company is not a railroad company within the meaning of the term as used in the commodities clause, but is really a coal company. The contention, we think, is without merit. The facts stated in the excerpts from the answer and returns of the company, which we have previously placed in the margin, leave no doubt that the corporation was engaged as a common carrier by rail in the transportation of coal in the channels of interstate commerce, and as such we think it was a railroad company within the purview of the clause and subject to the regulations which are embodied therein as we have interpreted them.

As the court below held the statute wholly void for repugnancy to the Constitution, it follows from the views which we have expressed that the judgments and the decrees entered below must be reversed. As, however, it was conceded in the discussion at bar that in view of the public and private interests which were concerned the United States did not seek to enforce the penalties of the statute, but commenced these proceedings with the object and purpose of settling the differences between it and the defendants concerning the meaning of the commodities clause and the power of Congress to enact it as correctly interpreted, and upon this view the proceedings were heard below by submission upon the pleadings, we are of opinion that the ends of justice will be subserved not by reversing and remanding with particular directions as to each of the defendants, but by reversing and remanding with directions for such further proceedings as may be necessary to apply and enforce the statute as we have interpreted it.

And it is so ordered.

Mr. Justice Harlan dissenting.

As these cases have been determined wholly on the construction of those parts of the Hepburn Act which are here in question, and as Congress, if it sees fit, may meet that construction by additional legislation, I deem it unnecessary to enter upon an extended discussion of the various questions arising upon the record, and will content myself simply with an expression of my nonconcurrence in the view taken by the court as to the meaning and scope of certain provisions of the act. In my judgment, the act, reasonably and properly construed, according to its language, includes within its prohibitions a railroad company transporting coal, if, at the time, it is the owner, legally or equitably, of stock—certainly, if it owns a majority or all the stock—in the company which mined, manufactured, or produced, and then owns, the coal which is being transported by such railroad company. Any other view of the act will enable the transporting railroad company, by one device or another, to defeat altogether the purpose which Congress had in view, which was to divorce, in a real, substantial sense, production and transportation, and thereby to prevent the transporting company from doing injustice to other owners of coal.

AMENDMENTS TO THE TARIFF BILL.

Mr. DICK submitted two amendments intended to be proposed by him to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, which were ordered to lie on the table and be printed.

Mr. BRIGGS submitted an amendment intended to be proposed by him to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, which was ordered to lie on the table and be printed.

Mr. SCOTT submitted an amendment intended to be proposed by him to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, which was ordered to lie on the table and be printed.

Mr. ROOT submitted an amendment intended to be proposed by him to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, which was referred to the Committee on Finance and ordered to be printed.

He also submitted an amendment intended to be proposed by him to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, which was ordered to lie on the table and be printed.

Mr. BURKETT submitted an amendment intended to be proposed by him to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United

States, and for other purposes, which was ordered to lie on the table and be printed.

Mr. SIMMONS submitted an amendment intended to be proposed by him to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, which was ordered to lie on the table and be printed.

Mr. DIXON submitted an amendment intended to be proposed by him to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, which was ordered to lie on the table and be printed.

OCCUPATIONS AND THEIR RELATION TO THE TARIFF.

Mr. CULBERSON. Mr. President, I ask to have printed as a Senate document an article in the Quarterly Journal of Economics, by Edward Atkinson, entitled "Occupations and their relation to the tariff." It is intended to show, according to this writer, how many people employed would be affected by a reduction of the tariff. It is based upon the census of 1900. I ask that this article be printed as a Senate document.

The PRESIDENT pro tempore. The Senator from Texas asks that the matter which he sends to the desk be printed as a document.

Mr. ALDRICH. What is the request?

The PRESIDENT pro tempore. The Senator from Texas requests that the following article—

Mr. CULBERSON. It is an article written in 1902 by the late Edward Atkinson, of Boston, showing how the people engaged in occupations will be affected by the tariff. It is based upon the census of 1900.

Mr. ALDRICH. I do not like to interpose an objection to a matter of this kind, but I think the Senator from Texas must be aware that if we commence reprinting in the form of documents all the tariff articles or documents that have been published, it may involve the Government in very great expense before we get through.

Mr. CULBERSON. I do not contemplate at this time making any other similar request.

Mr. ALDRICH. The Senator from Texas may not, but there are a great many other Members of the Senate who may have articles or arguments on various subjects which they would like to have printed. It is entering upon a field which I think no man can see the limits of at present.

Mr. CULBERSON. I hope the Senator will not interpose at this time an objection.

Mr. ALDRICH. I will ask the Senator to let his request go over until to-morrow, and I will make an examination of the character of the document.

Mr. CULBERSON. Very well.

Mr. ALDRICH. I want to see it.

Mr. CULBERSON. It is written by a great statistician, the greatest this country has ever known.

Mr. ALDRICH. Mr. Edward Atkinson was quite a free-trade authority in his day; there is no doubt about that; but he was a great controversialist, and there are a great many people who think he was entirely wrong in his ideas, and certainly in his conclusions.

Mr. CULBERSON. This is not a discussion, Mr. President, of free trade. It is simply a statement by Mr. Atkinson as to how the number of people engaged in protected industries will be affected by a reduction of the tariff, based upon the census of 1900. But I have no objection to its going over until to-morrow, as requested.

The order was reduced to writing as a resolution (S. Res. 43), as follows:

Senate resolution 43.

Resolved, That there be printed as a document an article by the late Edward Atkinson, contained in the Quarterly Journal of Economics for the month of February, 1903, pages 280 to 292.

The PRESIDENT pro tempore. The resolution will lie over and be printed.

WOOL AND MANUFACTURES OF WOOL.

Mr. DOLLIVER. Mr. President, I desire to ask unanimous consent to do what I neglected to do yesterday, to print in connection with my remarks on the tariff a series of questions and answers involving criticisms and opinions upon the wool question, by Mr. Dale, the editor of the Textile World. I desire also to have the matter printed as a Senate document.

The PRESIDENT pro tempore. The Senator from Iowa asks that he may insert as a part of his speech certain matter which he has stated to the Senate. Is there objection? The Chair hears none. He also asks that the matter referred to be printed as a Senate document. Is there objection? The Chair hears none, and the order is made.

NATIONAL WATERWAYS COMMISSION.

Mr. BURTON submitted the following concurrent resolution (S. Con. Res. 4), which was referred to the Committee on Printing:

Senate concurrent resolution 4.

Resolved by the Senate (the House of Representatives concurring), That authority be, and the same is hereby, granted to print and bind, for the use of the National Waterways Commission, such papers, documents, and reports of hearings as may be deemed necessary in connection with the subject-matter to be considered by said commission.

THE TARIFF.

The PRESIDENT pro tempore. The calendar is in order. The Secretary will announce the first bill on the calendar.

The bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, was announced as first in order, and the Senate, as in Committee of the Whole, resumed its consideration.

Mr. CUMMINS. Mr. President, when, a few mornings ago, I suggested that I would address the Senate at this time upon the pending bill, I had it in mind to limit my remarks to a brief discussion of the iron and steel paragraphs of the bill. Since, however, certain things have occurred and certain things have been said which lead me to broaden a trifle the scope of my observations.

I want, if possible, before we begin the real debate upon these paragraphs, to have a clear understanding with regard to the political attitude of certain Republican Senators. My colleague [Mr. DOLLIVER] has just closed a speech great in its thought, great in its analysis, great in its influence upon the opinions of men. As I understood that speech in so far as it related to the woolen schedules, it consisted of a history of the schedule as it now appears in the Senate bill. It was intended to suggest that what we are now asked to adopt had its origin forty years ago or more; that the relation which is now sought to be established again between wool and woolens was established more than a quarter of a century ago; and that, in view of the developments of the period intervening, it was worth while to examine and to discover whether that relation should be preserved; and he exhibited to the Senate an overwhelming abundance of evidence tending to show that the time had come when the relation should be reexamined.

Thereupon the distinguished chairman of the Finance Committee arose and asked the Senate to print in the RECORD—in parallel columns he would have had it, if that had been possible—the remarks of my colleague upon that subject and the remarks of certain renowned Democratic Senators upon the same subject at a former time.

When the remarkable speech of my colleague had been finally concluded, the chairman of the Finance Committee arose and said that the woolen schedule was the very citadel of Republican protection; that the man who challenged it was unfaithful to the Republican faith; and that if it were successfully challenged the whole structure of Republican protection would be overthrown. This to me was one of the most astonishing and intolerant statements I have ever heard delivered in any political or deliberative body.

Is it possible that a Senator who believes profoundly in the doctrine of protection can not suggest that duties upon woolens are too high when they are compared with the duties upon wool? Have we arrived at that slavish state of public opinion in which it becomes a political crime to question the correctness, not of a former Congress, but the correctness of certain schedules as they are applied to existing conditions? I marvel that we were permitted to hear a doctrine of that sort. I have the most kindly feelings for every member of the Finance Committee. Every member holds my respect, and I have no question whatsoever that the bill as reported to the Senate represents the honest opinion of a majority of the members of this high committee.

What then? Is it to be tolerated that a Republican, coming from the ranks, one who has for years borne a part of the burdens of our campaigns, can not differ from the judgment of the Finance Committee without incurring the penalty of having his Republicanism challenged time and again? This is a spirit which I hope will be banished from the debate from this time on.

While I do not arrogate to myself any high position in the Senate—I recognize that I am its humblest Member—I believe I have a better title to speak for those who have favored a reduction of the Dingley schedules than any man in this Senate Chamber. I am one of the few Republicans, if you please, who, for seven years, have insisted that the schedules of the law of 1897 ought to be revised. I have fought for my faith in every campaign during these years. I am in this high tribunal simply because I did fight for that faith, and I intend to defend it with all the vigor and the earnestness of which I am capable.

The Finance Committee, composed of honorable, intelligent, broad-minded, experienced men, is still not the Ark of the Covenant of Republican doctrine. It is not the only repository of Republican faith. Inasmuch as the revision of the tariff as demanded in the Republican platform last year came from a demand upon the part of these same people whose courage I helped to sustain and whose energies I helped to direct, I have a right to stand here and assert that these schedules do not represent the only Republican doctrine known among men.

I do not disparage the Finance Committee in any respect when I say that in so far as I am advised there is not a single member of that committee who ever advocated a revision of the Dingley schedules. They are not to be criticised for that. They did not believe that it was necessary that the duties of the law of 1897 should be lowered, and I accord to them the same honesty of judgment that I claim for myself. But is it to be wondered at that a committee, no one of whom, so far as I know, was in favor of the revision of this law, driven to it under the command of a Republican platform, should enter upon their work with a belief that the schedules should not be reduced, but should rather be raised? I honestly think that most of the members of this committee felt that the Dingley schedules should be lifted up instead of taken down.

Is it any wonder that their report, in trying to keep the promise to the ear, has broken it to the hope, for there is no substantial reduction of the duties of 1897 in the report of this committee? I am not unmindful of the fact that upon many things duties have been lowered, but in so far as my examination has gone, I assert that, with the exception of the duties on lumber and the duties on hides, there has been no reduction in any important article known to the commerce of America that will affect its price to the consumer one whit. If this demand for a revision of the tariff schedules did not arise from a desire on the part of the people to buy the things they were buying at a less price, out of what desire did it arise?

Now, I am not challenging the opinion of the gentlemen who believe that prices ought to be higher. They announce that they so believe, but the men who brought about this declaration of the platform in Chicago did not so believe. They wanted a reduction of the duties upon articles and commodities, so that the reduction would result in a lessened price to the consumer or the user.

With this explanation I intend to examine some parts of the pending bill. I am just as fond of the Republican party as is the Finance Committee. Unlike its distinguished chairman, I was born in the Republican party. I came of a race of Abolitionists, who were Republicans not because they thought a Republican management of the industries and of the commerce and of the finances of the country was more capable than a Democratic administration, but because they believed the Republican party was more firmly and deeply devoted to the cause of humanity.

I have lived many years in the atmosphere of protection. I was born and raised upon the Monongahela River, in a community and in an air that would have stifled the first breath of a free trader. I came to my man's estate with the earnest conviction that protection was not only the best policy for a great people like our own, but that it was the only policy under which our people could prosper and achieve the destiny that the Almighty has intended for the American Nation.

Let no man, therefore, impeach my Republicanism because I question the duties that are attached to the various articles and commodities found in the pending bill. I resent in the beginning, and I shall resent at every step of this bill through the Senate, any such insinuation or intimation, whether directed to me or whether directed to any of my colleagues who hold the same general views that I do.

I do not intend to hunt for a "joker." My time has been otherwise employed in the examination of this bill. I am not searching for any hidden or obscure meaning in the language of the bill. We have come to a sad estate if we must begin the examination of a great measure like this with the understanding or even the suspicion that lying away obscured in the vague language of the bill there may be a penalty imposed that is not as open and clear as the sunlight, and which we may not all observe.

I do not hunt for these obscure things. The things that I do not like in this bill are plain and obvious. The things that I do not like are so clear that the man who runs may read, and I have sometimes thought that they were so atrocious that the man who reads will run as well.

When I say "atrocious," I want there to say a word. I have expected to vote for this bill. I intend, unless something develops that has not yet made its appearance, to vote for the bill. But if I do vote for it, I will vote for it because I believe it to

be some improvement upon the duties of 1897 as tested by the conditions of the present moment. I shall not vote for it because I believe that it is a substantial revision of the tariff duties or a fair compliance with the Republican platform of 1908. I desire that my position with respect to it shall be everywhere known.

I have received some intimations from home since this bill was reported. The very first intimation that I had was an inquiry about crockery, and this correspondent said, "Of course you will reduce the duties on common earthenware." There is not a home in my State or in any other that is not supplied with this article. Its value is not so great as the value of some things in the tariff, but I supposed that if we were going to reduce the tariff, one of the first things the committee would do would be to reduce the duty upon pottery, not upon all kinds of pottery; I am not particularly concerned in china, in bisque, in parian, or in many other things out of which some articles called "crockery" can be made; but I am interested in having the homes of Iowa, if I can, the humble homes, the homes out of which the real patriotism of the country arises like incense, considered in a reduced duty on crockery. And yet, in the wisdom of this committee, the old duties are preserved; and what are they? I will not stop now to refer to the papers I have on my desk. I have here the proof of every statement that I shall make. The duties on plain crockery, the ordinary white earthenware that you see on every table that is not spread in a palace, are 55 per cent.

Mr. FLINT. Mr. President, I should like to ask the Senator from Iowa a question. In making this examination, and I have no doubt he has given it careful study, his desire being to ascertain whether the consumer, the farmer in Iowa, is paying too high a price for these articles, has he ascertained the amount paid the manufacturer for these articles, at what price the manufacturer has sold to the wholesale dealer, and in turn at what price the wholesale dealer has sold to the retail dealer? Has he tried to ascertain whether the tariff is a factor in fixing the price to the consumer or whether it is the extravagant prices charged by the wholesalers and the retailers? I would be glad if the Senator would put those figures in the Record, so that we can ascertain whether the farmers are paying an excessive price by reason of this tariff.

Mr. CUMMINS. Mr. President, in order to remove the very question which my friend from California has suggested, I have here the invoices of the wholesalers, the invoices at which the wholesalers bought their goods, and I might as well pause now to examine the real spirit of that inquiry. It came honestly. It has been put in this Chamber a score of times since we began this discussion, and I have not yet heard it answered as it ought to be answered. When we ask for free lumber we are told that the duty on lumber does not increase the price to the consumer, and that a removal of the duty would not lessen the price to the consumer. When we ask for a reduction of the duty on crockery we are told that somewhere between the factory and the user there are interposed such unlawful combinations and criminal conspiracies as will result in destroying the ordinary force of competition in business, and that therefore it makes no difference what the cost abroad may be; it makes no difference what the cost of production may be, the consumer is sacrificed and crucified just the same.

I can not so believe. I still have some hope of my country. I still have profound confidence in the justice of its laws and in the ultimate triumph of fair dealing between its people. I know that the tendency of the last few years has been to destroy the competition which does give to the consumer the benefit of the reductions which I ask in this bill. I am aware of that.

There is nobody who knows better than I do that all over the land, especially in the larger industries, there are combinations, concentrations, and conspiracies which do attempt to rob, and which have for their avowed object the purpose of robbing, the consumer or the user of the benefits and advantages of fair and successful competition. Thank God, these conspiracies have not yet enslaved the American people. Thank God, there is yet a little virtue and conscience left in our men that will induce them to struggle against such conspiracies and combinations; and if the Senate is true to its traditions, true to the teachings of the fathers, it will do something, and it can do something, within a short while, as the lives of nations go, to remove this intervention, this unlawful intervention, which, it is said, prevents the man who uses or the man who must ultimately pay from acquiring and enjoying the advantages of free and fair and complete competition. So that it is no answer to me to suggest that, even if this duty were somewhat lowered, the consumer would not have the benefit of it. But I have not yet told you the full enormity of it, and I take this just as an example.

Mr. FLINT. Will the Senator permit me to give him an example?

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. With pleasure.

Mr. FLINT. Mr President, my attention has been called—and I will address myself some few days later to the subject, if I have an opportunity—to one article of crockery which has been imported at the rate of 60 per cent. The article costs, landed here, 5 cents or less. That same article is sold in the department stores throughout this country at 25 cents. I ask the Senator—if that statement is correct, and I believe it is—what relation the 60 per cent duty had on that article which cost 5 cents, when the consumer was paying 25 cents in a department store for it?

Mr. CUMMINS. None whatever. But the Senator from California, with his keen mind, must understand that there is no more relation between the case he puts and the case I am arguing than there was between the duty and the price in the case he suggests. When you extend that observation to a commodity that is on every table and which fills every store, you can not ask the Senate to believe that the duty imposed upon such an article has the same relation to it, or has the same effect upon it, that it does upon some gimcrack or toy that is sold for an artificial price and surrounding which there is no relation, as you may well say, between the cost of production and the price of sale.

But now answer me this question while you are on your feet: Are you prepared to say to the Senate that the price paid by the American people for the great, important things which they use and consume is not affected in any way by the cost of production? Answer me whether that is true.

Mr. FLINT. The question of the cost of production and the rate?

Mr. CUMMINS. That is just what I mean.

Mr. FLINT. I think I can show the Senator before we finish with this table that the illustration which I have given can be duplicated many times over. This illustration was merely the matter of a toy. I will now call the Senator's attention to another article which has been brought to my attention that is in everyday use. The manufacturers of razors in Connecticut sell those razors to the jobbing houses for \$3.95 a dozen. The jobbing house sells those razors for \$5 a dozen to the retailer, and the retailer charges \$2 to the consumer for such razors, or \$24 a dozen. Was the rate of 25 or 50 per cent on the \$3.95 that this article has been manufactured for in this country a factor in the selling price to the consumer?

Mr. CUMMINS. I do not know whether it is or not. It depends entirely upon the cost to the retailer selling the product. But I will not permit the Senator from California to divert the attention of the Senate from commodities that are in universal use, in which the consumption is large, and upon which there is an established price in every market; I will not permit him to divert the attention of the Senate from such things to toys or razors. Tell me whether, in the absence of any combination or conspiracy or in the absence of any duty, you think the price of steel rails in the market would be governed somewhat by the cost of producing steel rails?

Mr. FLINT. I will answer the question which the Senator has asked me. I think that where the manufacturer deals directly with the consumer it may be affected by a tariff; but I say that there are only a few articles of that kind. Going through these tariff laws from one end to the other, you will find that the tariff is not a material factor in the selling price to the consumer; but the high price which the consumer pays for an article is caused by reason of the exorbitant prices charged, not only in department stores, but stores throughout the country, in large cities and in small towns. Their profit is from 50 to 100 per cent on these articles, and I think I can establish that to the satisfaction of the Senate and the people.

Mr. CUMMINS. Mr. President, the retailer may be a very bad man, but it has not been my observation that there are many retailers who become millionaires. There may be a few in department stores—and I see my friend from California [Mr. FLINT] is eager to rise again—there may be a few of these great department stores, which are subject to the very same criticism that I shall hereafter impose upon the United States Steel Corporation, who grow rich; but the greater part of the retailers in the United States, in view of the sharp, keen, everlasting competition among them, do not make more than a fair and reasonable livelihood. I say again that when I am talking about crockery, a thing that is just as staple as steel rails or as iron rods or as steel wire, the Senator from California must admit that the cost has something to do with the price at which

it is sold. And the enormity of this schedule is that not only is a duty of 55 per cent imposed upon it, but when you take into account the restrictions and the cost which the importer must suffer in order to compete with the domestic manufacturer, the substantial duty or advantage rises to 95 per cent. I say it is an excessive duty. I say it is one of the things which the Finance Committee ought to have carefully considered, and if their judgment hung in the balance it ought to have determined that controversy in favor of the great mass of the American people. But I must hasten on.

Mr. TILLMAN. Will the Senator allow me to interrupt him for a moment?

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from South Carolina?

Mr. CUMMINS. Certainly.

Mr. TILLMAN. I want to ask the Senator from California [Mr. FLINT], if these tariff duties cut no figure in this controversy, why are the mails flooded and why are the lobbies crowded here with people clamoring for an increase of duties or for the maintenance of existing duties? Are those fellows fools that they come around or hang around and haunt Congressmen and burden the mails if the duties are of no use to them?

Mr. CUMMINS. I have the greatest regard for the Senator from South Carolina, but I can not permit an interruption which will speedily develop into a colloquy or an argument between him and the Senator from California [Mr. FLINT].

Mr. FLINT. Before the Senator from Iowa resumes, he asked me one question, and I think I have answered it very fairly and frankly. I should like now to ask him one question, and see if he will answer it as fairly and frankly as I have answered on my part.

Coffee and tea are both on the free list. Is the Senator from Iowa of the opinion that, by reason of the fact that they are on the free list, the consumer is buying tea and coffee any cheaper than he would if we had a small tariff upon those articles?

Mr. CUMMINS. Yes, sir.

Mr. FLINT. How does the Senator account for the price on tea and coffee, or we will say tea, that costs about 18 cents and is selling for 65 cents a pound?

Mr. CUMMINS. Does the Senator want a sort of elemental discourse on political economy and trade?

Mr. FLINT. No; but the Senator asked me a question which I answered fairly and frankly, and I ask just as frank an answer from him. As to the article of tea, which is on the free list and now sells for 65 cents a pound while it costs wholesale about 18 cents a pound, I ask what effect would a tariff have on that article to the consumer?

Mr. CUMMINS. It would add just that much to the cost to the consumer, unless there is between the importer and the consumer some unlawful combination that distorts the ordinary and usual law of trade. I am astonished to find a man so intelligent and so thoughtful as the Senator from California, making the broad assertion that it does not make any difference in the price to the consumer what the article costs. Suppose you should levy a duty of \$5 a pound on tea, what do you think would be the result then?

Mr. FLINT. I think it would make a difference.

Mr. CUMMINS. So do I.

Mr. FLINT. But I say that the tariff on the articles in the bill does not make a difference to the consumer, for the reason that the profit to the retailer, the jobber, and the wholesaler is so great in this country that the small tariff charged on the articles named in the bill is not a factor to the consumer.

Mr. CUMMINS. You have not placed a duty on tea in this bill.

Mr. FLINT. I am talking about articles which are in the bill, and which do pay a duty.

Mr. CUMMINS. That is one of the things you did not dare to do.

Mr. FLINT. I said, so far as tea and coffee are concerned, they are both on the free list.

Mr. CUMMINS. Certainly.

Mr. FLINT. And while tea is on the free list and is costing 18 cents a pound, it is selling to the consumer for 65 cents. In the mail to-day every Senator received a communication from a tea merchant or importer which contained acknowledged affidavits to the fact that Salada tea was selling in this country in the open market for 60 cents a pound under free trade, and that the same tea was selling in Canada for 40 cents with free trade. How does free trade benefit the consumer?

Mr. CUMMINS. I have no doubt the Senator from California has such communications; but I will ask him whether he has had any communication from a consumer of tea, one who drinks

tea, asking him to put a duty of 10 cents a pound on tea? If you can produce a single man who has asked you to do that, then I will agree that you have had your mind open not only to the great, but to the small as well.

I pass on to another subject, and I want the Committee on Finance to understand that I am inquiring as to some things. I have mentioned one thing that you will always find upon every man's table; but there is another thing that you will find in every poor man's home. It is a little piece of oilcloth.

Now, I ask the Senator from California, who represents on this floor this morning—I was going to say the entire Finance Committee, but I have observed that that is not strictly accurate—but I would like at some time during the course of this debate for some member of the Finance Committee to explain why the duty on oilcloth, already 100 per cent, was increased by this bill? There is very little, I suppose none of it, imported, simply because of the duty under the Dingley Act upon oilcloth. This [exhibiting] is table oilcloth. The duty on it now is 115 per cent; and if this bill becomes a law, the duty on it after that will, so far as this piece of oilcloth is concerned, be 270 per cent.

Mr. BEVERIDGE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Indiana?

Mr. CUMMINS. I do.

Mr. BEVERIDGE. I see three members of the Finance Committee here, and, since the Senator has asked the question, I myself would like to know from the Finance Committee why any such increase of duty on oilcloth as that was made, if they are prepared to give the reason.

Mr. SMOOT. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I do.

Mr. SMOOT. I will simply say that, so far as the sample of oilcloth is concerned which the Senator submits, I would have to examine it and find out just what paragraph it comes under. Then I could find out whether the statement of the Senator is correct.

Mr. CUMMINS. I will show you the paragraph I refer to.

Mr. BEVERIDGE. The Senator said that there was oilcloth used in the common homes of this country, the duty on which had been increased 200 per cent.

Mr. CUMMINS. I did not say that.

Mr. BEVERIDGE. That the present tariff is one hundred and some per cent, and the pending bill provides for two hundred and some per cent. That was the statement.

Mr. CUMMINS. That was the statement.

Mr. BEVERIDGE. Now, the members of the Finance Committee ought to know the reason right now for such an increase as that upon any article that is used in the common homes of the country.

Mr. FLINT. If some of us had the ability of the Senator from Indiana to carry this entire tariff bill in our heads, I have no doubt we could answer in a moment.

Mr. BEVERIDGE. There will have to be a better answer than that to an inquiry for facts.

Mr. SMOOT. We will give a better answer, but we can not do so in a moment.

Mr. BEVERIDGE. The bill is not going to be hurried nor are votes for committee amendments going to be won except upon a fair answer to a courteous request for a reason for an astounding increase.

Mr. DICK. Mr. President—

Mr. BEVERIDGE. There are three members of the Finance Committee here now. The Senator from Iowa had stated that on common oilcloth—which ought to be very conspicuously in the mind of every member of the Finance Committee, because it is a thing universally consumed—there has been an increase, if I caught the Senator correctly, of about 100 per cent. Every Senator has a right to know from the Finance Committee right now why that increase was made.

Mr. NELSON and Mr. DICK addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Iowa yield?

Mr. CUMMINS. I yield to the Senator from Minnesota [Mr. NELSON], who, I think, rose first.

Mr. NELSON. I want to call the attention of the Senators from Utah, California, and Indiana to the fact that the duty on chloroform has been reduced 50 per cent. [Laughter.]

Mr. BEVERIDGE. That may explain the reason why the committee increased this duty.

Mr. FLINT. Certainly the reduction of the duty on chloroform has not had any effect upon the Senate.

Mr. SMOOT. Further, I should like to say to the Senator that many other articles are reduced a great deal more than 50 per cent.

Mr. CUMMINS. It is very fortunate that the duty on chloroform was not reduced prior to the consideration of these matters by the Finance Committee, else its increasing quantity might have led to an increase on oilcloth of 500 per cent instead of 100.

Mr. DICK. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Ohio?

Mr. CUMMINS. I do.

Mr. DICK. I only desire to interrupt for a moment to make a suggestion responding to the request of the Senator from Indiana for information on the great variety of subjects in the various schedules of the bill. The Senator from Iowa—

Mr. BEVERIDGE. My request was for information upon a specific item.

Mr. DICK. Precisely.

Mr. BEVERIDGE. Conspicuously called to the attention of the Senate, and not as to a variety of subjects.

The PRESIDENT pro tempore. Senators must address the Chair and be recognized by the Chair before interruptions of the Senator having the floor can be allowed. The Senator from Ohio.

Mr. DICK. It would seem that while the Senator from Iowa is making a speech upon the general subject of the bill, Senators might possess themselves in patience for explanations of the various schedules when the schedules themselves are reached.

Mr. BEVERIDGE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Indiana?

Mr. CUMMINS. I yield for a single remark. I desire to pass on as rapidly as possible.

Mr. BEVERIDGE. I want to say this: The Senator from Iowa looked around and saw at that time only one member of the Finance Committee on the floor of the Senate. I observed there were three. Then the Senator from Iowa made the statement about this conspicuous item of the bill, and asked the Finance Committee here to explain it, but it was not done. I then asked for an explanation of it, but the explanation was not given. I will say to the Senator from Ohio that the Senator from Iowa specifically requested an answer to his question; and it is not interrupting him that we shall insist that the question shall be answered.

Mr. SMOOT. Mr. President, I ask the Senator—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I yield to the Senator from Utah. I want information upon this matter; and if my advices are incorrect, I shall frankly admit my mistake.

Mr. SMOOT. I ask the Senator to say under what paragraphs the particular oilcloth of which he speaks falls?

Mr. CUMMINS. There is but one paragraph relating to oilcloth.

Mr. SMOOT. Then that paragraph is 343.

Mr. CUMMINS. There is only one paragraph in the bill under which oilcloth falls, and if the Senator will resume his seat for a moment I will open the matter up to him so that he will have no trouble in seeing exactly the point I am making. I desire to develop for a moment, inasmuch as it has been challenged, the history of the tariff on oilcloth and linoleum.

Mr. SMOOT. I want to call the attention of the Senator to the fact that the House bill provided a duty on oilcloth under 11 feet. We simply made it under 9 feet.

Mr. CUMMINS. Yes; and that is the way you raised the duty without anybody knowing anything about it.

Mr. SMOOT. Mr. President, that statement would take too long to answer right here and now, but I think it can be answered all right.

Mr. CUMMINS. I make the charge that when you reduced the width you raised the duty, without specifically suggesting a raise of duty.

Mr. SMOOT. I want to say to the Senate here to-day that there is an absolute reason for it, and that reason will be given to the Senate beyond question. I am perfectly aware of the fact that the manufacturers on the other side have examined our schedules, and by manufacturing within one-half an inch of the specified width have brought in their products under a lower rate of duty. Now, because we are trying to protect the American people against the half-inch—

Mr. CUMMINS. I did not yield to the Senator from Utah for a speech and he abuses the privilege that I extended to him.

Mr. SMOOT. I will never ask the privilege again, Mr. President. I was simply giving the Senator the reason.

Mr. CUMMINS. I yielded to the Senator for a question.

Mr. GALLINGER. The Senator yielded for an explanation.

Mr. CUMMINS. I did not yield to the Senator for a speech.

Mr. SMOOT. You asked for an explanation.

Mr. CUMMINS. In 1890—

Mr. BURROWS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Michigan?

Mr. CUMMINS. I do.

Mr. BURROWS. I think the Senator from Iowa is hardly fair to the Senator from Utah, especially as his request was seconded by the Senator from Indiana, who desires an explanation, and insists that the explanation should be made, and made now. The Senator from Utah was about to make such an explanation, and I am afraid the Senator from Iowa was not quite courteous to him in not allowing him to make the explanation.

Mr. CUMMINS. Mr. President, from so venerable a friend I accept this rebuke, but I may commit the offense immediately again. I yielded to the Senator from Utah for an explanation; I did not yield to him for the purpose of repeating that old and familiar argument that it was necessary to protect the producers of America against the producers of another country. I recognize that just as thoroughly as does the Senator from Michigan or the Senator from Utah; and the explanation for which I yielded could not possibly have embraced an attempt to answer my general argument. I did not intend to be discourteous; and I hope the Senator from Utah, whenever he has an explanation to offer, will interrupt, because I shall be glad to yield to him.

Mr. BURROWS. I know how courteous the Senator from Iowa always is, and I assure him that what I said was not intended as a rebuke to him by any means, but to plead with him, rather, to allow the Senator from Utah to answer his question, especially in view of the fact that the Senator from Indiana is so insistent that it shall be answered now, and the Senator from Utah commenced his answer, when he was cut off. I ask the Senator now to allow the Senator from Utah to explain why it was.

Mr. CUMMINS. Very well; I yield to the Senator from Michigan, and if the Senator from Utah has anything further to say I will yield to him and be glad to listen to him.

Mr. SMOOT. Mr. President—

Mr. BEVERIDGE (to Mr. Smoot). Make the explanation.

Mr. SMOOT. No; I do not think it is proper for me to make an explanation on this matter any further. I started to state the reasons for the increase. I do not care especially to say any more upon that subject at this particular time.

Mr. CUMMINS. Mr. President, I rather assumed, when I said what seemed to the Senator from Michigan discourteous, that the Senator from Utah had really reached the end of his explanation, and was delighted when I interrupted him.

I will call attention, now that the matter has been raised, in detail to the origin and the development of this duty on oilcloth—possibly not the origin, but its recent evolution. In 1890 there was a Republican revision of the tariff, and it was conducted, so far as the House was concerned, by masters of the principle we all espouse. This is the provision made in 1890:

369. Oilcloth for floors, stamped, painted, or printed, including linoleum, corticene, cork carpets, figured or plain, and all other oilcloth (except silk oilcloth), and waterproof cloth, not specially provided for in this act, valued at 25 cents or less per square yard, 40 per cent ad valorem; valued above 25 cents per square yard, 15 cents per square yard and 30 per cent ad valorem.

It will thus be seen that the man who knew probably more about this subject than any other man living attached a duty upon everything valued under 25 cents per square yard of 40 per cent ad valorem. That provision became a law, and, historically speaking, the oilcloth factories and the linoleum factories prospered; but in 1897 there came another master to rewrite the law upon this subject, and he rewrote it thus:

337. Oilcloth for floors, stamped, painted, or printed, including linoleum or corticene, figured or plain, and all other oilcloth (except silk oilcloth) under 12 feet in width—

Here for the first time was a criterion as to the width or size injected into the law—

not specially provided for herein, 8 cents per square yard and 15 per cent ad valorem; oilcloth for floors and linoleum or corticene, 12 feet and over in width, inlaid linoleum or corticene, and cork carpets, 20 cents per square yard and 20 per cent ad valorem.

Mr. PAYNE came to consider the subject, and the House reduced the width to 11 feet; that is, provided that all oilcloth and linoleum not exceeding 11 feet in width should bear a duty of 8 cents per square yard, and the same material in excess of 11 feet should pay 20 cents per square yard and 20 per cent ad valorem. Thus it came into the Senate, and the Senate com-

mittee reduced the width from 11 to 9 feet, and attached a duty of 8 cents per square yard with an ad valorem on all widths under 9 feet, and a duty of 12 cents per square yard upon all over 9 feet with 20 per cent ad valorem, and in that way increased the duty, nearly doubled the duty, upon the widths between 9 and 12 feet. This is the way in which this matter has been handled.

But I beg now to call the attention of the Senate to linoleum. Here [exhibiting] is an ordinary bit of linoleum. That is the kind the common man buys for his kitchen or for his dining room or for any other part of his dwelling or office. There [exhibiting] is the kind of linoleum that the rich corporations or rich associations buy in order to carpet the halls of their marble and bronze offices. I want you to hold those two in your mind while I speak of the effect of the tariff upon them. One would think that a committee, if it had not been overwhelmed with graver and more important work, would have given the advantage to the linoleum in common use; that everybody used. But let us see how it was done. This is one of the complaints that my people make of the tariff bill, not alone the importers. My information in part came from men who import linoleum, but my information also came in part from the men who buy and use linoleum.

Mr. FLINT. Has the Senator the figures, so as to put them in the RECORD, to show what the manufacturer receives for the linoleum and what the wholesaler and the retailer receive and what the consumer pays for it, to show to the consumer of the country whether it is the tariff that affects the price or whether it is the excessive price made by the storekeepers of the country?

Mr. CUMMINS. I have not prepared any table of that kind, and I never will. I tell the Senator from California again, that if I ever reach the conclusion that the business of the United States is so criminal, is so interwoven with vicious combinations and conspiracies that the ordinary laws of trade have lost their force and effect, I shall cease to have any interest in this subject at all, and I shall despair of the welfare of the country whose interests we are all now serving. I have not prepared any such tables, nor shall I. But here is the situation:

This [exhibiting] is common linoleum. It costs no more per pound to make common linoleum than it costs to make high-priced linoleum. There is no perceptible difference between the cost of linoleum per pound. The difference in cost lies in the difference in weight, because this bit of linoleum [indicating] is made of exactly the same material as is this linoleum [exhibiting]. I am speaking, of course, of the plain linoleum, not the inlaid or patterned linoleum. Instead of using a specific or compound duty based on size, it seems to me you ought to have chosen a specific duty based on weight; or, if you have not the information necessary to impose a specific duty on weight, then an ad valorem duty upon the whole.

This is the way it figures out: That piece of linoleum [indicating] weighs 2½ pounds to the square yard. This is an imported piece. Its value abroad is 16½ cents per square yard, coming in if it is under 9 feet in width. There is no reason why it should be under 9 feet in width. There is no substantial difference between making linoleum 9 feet in width and 12 feet in width. It is simply a difference in the size of the roller and in the beds upon which it is rolled. But if it is less than 9 feet in width, the duty on that piece would be 65 per cent ad valorem. I am reducing them now to ad valorem. If it was 9 feet or over, the duty would be 89 per cent, and if it had the least semblance of print, or of marbling like that [exhibiting] the duty upon it would be 142 per cent.

These are not fanciful figures that I am giving now. I know the history of these two pieces of linoleum. One is called "granite" and the other is made to represent the grain of wood, and it practically costs no more to make it in that form than it does to make it plain.

Now, do not smile; I hope I will not provoke a smile from any member of the Finance Committee. I may be mistaken. I know the legal history of these pieces of linoleum. The customs appraisers and finally the court held that these two pieces of linoleum, the "grained" piece and the "marbled" piece, so called, were not inlaid, and therefore assessed duties upon them as they would have assessed duties upon these pieces [indicating]; and now in order to increase the duty on these pieces of linoleum, in order to overcome the decision of the court in construing the act of 1897, we find introduced into the bill these words:

Any of the foregoing of whatever width, the composition of which forms designs or patterns whether inlaid or otherwise, by whatever name known, and cork carpets, cork mats, and linoleum mats, 20 cents per square yard and 20 per cent ad valorem.

So that on this piece, as I say, the duty would be 142 per cent. Now I come to the larger piece. If this large or heavy piece comes in less than 9 feet in width, the duty equals 25 per cent, against 65 per cent on the kind that is ordinarily used by the poorer people of the country. If it comes in over 9 feet in width, the duty upon this is 30 per cent, against 89 per cent when of the lighter quality. I am not asking you to explain the disparity now, but some time before this schedule is submitted to the Senate I hope, in the name of fairness and in the name of justice to the American people, you will tell why you preserve—I do not say you created it—the difference between an article in common use and an article less commonly used. But if you put designs or patterns upon that piece of linoleum, then the duty becomes 45 per cent ad valorem, against 142 per cent on the common kind.

I have here also two specimens of inlaid linoleum. They are the same; not so great differences in weight, but, after all, they present the cheapest form of inlaid linoleum and the better form of inlaid linoleum. Let me now suggest to the Senate what the application of this bill produces with respect to these articles. This one is 4 pounds to the square yard, and its value abroad is 36 cents a square yard. It does not make any difference what its width is, whether 1 inch or 120 feet; the duty is just the same. But this piece of linoleum has a duty of 20 cents a square yard and 20 per cent ad valorem, and that equals 74 per cent. That is the kind of inlaid linoleum which the common people use. That is the kind they buy; and if there is any discrimination whatsoever, it ought to be in favor of that linoleum. I am not suggesting that there should be any such reduction in these duties as will cripple the home producer, the home manufacturer. I am not asking that. But I am asking that those things which we use and that the people generally use shall not be taxed more excessively than the things that the more fortunate people of the country use.

Let us refer to this other linoleum. This [indicating] is the better, heavier kind, and it weighs 10 pounds to the square yard. Its value is 66 cents a square yard, and its duty is 50 per cent. Tell the Senate sometime why you put a duty on this kind of 74 per cent and a duty upon the other of 50 per cent.

But, Mr. President, if I should continue these reviews of what I regard as the inaccuracies of these schedules, I would never reach that subject upon which I primarily rose to speak, and I now intend to turn my attention to a broader phase of the tariff law.

Mr. President, the bill now before us, which it may be presumed presents the views of the Finance Committee respecting the revision of the tariff, will not be accepted by those who have favored a revision of the tariff as either a fulfillment of the party pledge or as a settlement of the controversy. I make that statement with the full consciousness of the gravity that attends it. As I said in the beginning, I am one of those who favored the revision of the tariff, and I have some right to speak for those whose agitation brought about the declaration in the party platform, and therefore I say that this bill or anything substantially like it will not be accepted as a settlement of the dispute or as the fulfillment of the party platform. If this bill or anything substantially like it becomes a law, I predict that a campaign for lower duties will begin the moment the extraordinary session of Congress adjourns, and will continue with increasing zeal until the judgment entered in the court of the public conscience is also entered in the journals of Congress. It gives me no pleasure to utter this prophecy, for I have earnestly hoped that the revision now in progress would end the dispute for years to come, and that the business of the country would enjoy the peace and tranquillity which is impossible during the existence of a movement to materially change duties upon imports.

It is idle, worse than idle, to speculate upon the technical meaning of the words and phrases employed in the last Republican platform upon this subject. The declaration there found has a history, and that history is familiar to every Member of the Senate.

Who insisted upon tariff revision? It was not the manufacturer; it was not the lumberman; it was not the coal man; it was not the iron and steel man; it was not the glass man; it was not the cotton or the woolen man; it was not the oil man. During the whole agitation I never heard—you never heard—a demand from these people that the tariff must be revised. The demand came from those who believed—whether they were right or wrong I will consider presently—that the duties upon many articles and commodities were too high; from those who believed that they were paying too much for the things they had to buy, and that excessive import duties, coupled with other conditions, were enabling a favored few to reap inordinate profits; and therefore they wanted, as one of the steps leading

to the remedy which they sought, a substantial reduction of these duties. It is not necessary at this moment to inquire how many people so believed or in what part of the country they lived. It is not necessary to ask whether they were right or wrong in order to understand what the platform means. It is sufficient to say that it was under this demand from these people, whether they were many or whether they were few, that the party in its organized capacity promised a revision of the tariff; and the Senator who imagines that he can satisfy these people by saying that a revision with higher duties or with substantially the same duties is a compliance with the platform little understands the relation between people and platforms. I do not say that a Senator has not a perfect right to carry into effect his own views; I do not say that he has not a perfect right to repudiate the platform. In a contest between conscience and a party declaration conscience ought always to win. But a Senator who honestly believes that there should be no substantial reduction ought not to delude himself with the idea that he can answer the calls of his conscience and his platform at the same time.

I have heard it said over and over again since we began this discussion—not, of course, in public debate, but in private conversation—that there are but few people comparatively who were interested in a reduction of duties. I know, Mr. President, that the voices of those who are clamoring for an increase of custom-house taxation are more distinctly heard in the corridors and committee rooms; but there will come a time presently when the clamor of the millions who want some relief will sound like the roar of a thousand Niagaras from one ocean to the other. I have heard it said many times that those people who were insisting on tariff revision were not familiar with the subject and had no opportunity to know whether duties were too high or too low. This distrust or skepticism of the judgment of the common man is a fundamental mistake often made and always atoned for in sackcloth and ashes. The people, it is true, have not the advantage of hearing the specific statements of the army of interested beneficiaries and witnesses who have filled and overfilled the capital during these months in which the subject has been under consideration.

They reason upon broad lines, but they have better evidence than the testimony which is submitted to congressional committees or which has buried us under an avalanche of briefs and special pleading. They know in a comprehensive and absolutely accurate way of the development in the United States. They know how wealth is distributed and the source from which it comes. They know what industries breed millionaires and what industries do not, and their conclusions are only less infallible than the conclusions of the Almighty himself. There is not a man among you who does not know what they have been thinking in the last few years; there is not a man among you who does not know the judgment which they have entered; and I for one believe that their judgment is altogether just and righteous and that in the end it must prevail. I think I can summarize the process of their reasoning so that you will all recognize its unerring logic. They have witnessed the gradual weakening of the forces of competition in the larger fields of industry through concentrations, combinations, agreements, and all the other modern mechanism which an ingenious age has discovered. They have seen competition shut out of some of these fields by the intervention of excessive import duties. They have felt the injustice of the discriminations which the vast power of our transportation systems can inflict. They knew that these things were wrong, and after bearing the burden until it became intolerable they began to move with irresistible strength along the pathway of reform. They have made some progress toward the regulation of transportation and the repression of corporate evils. The last administration will be remembered so long as the history of our country is preserved for its victories in the struggle for rate regulation and for corporate fair dealing. The work has just begun, and I sincerely hope that the present administration will be no less distinguished than the last one for its energy in dealing with these perplexing problems. One part, however, of the programme was assigned, by common consent, to this administration, and its conspicuous leader assumed without hesitation the task of tariff revision. The people know what they want with respect to revision just as well as they knew what they wanted with respect to railways and to industrial combinations; and their intelligent, educated, patriotic instinct is just as certain with respect to the tariff as it was with respect to transportation or monopolies. If we fail now to substantially reduce the duties upon the important schedules, we but postpone the justice due to the people, a justice which, thanks to the genius of our institutions, they have the power to enforce, and which in the fullness of time they will enforce.

The scenes through which I have been passing during the last few weeks are most depressing. Optimism has turned into utter dejection. Pride in what I had fondly believed was the greatest nation upon the face of the earth gives way to the shame and humiliation which attends a confession that the United States is a weakling; that instead of accumulating wealth at an unparalleled rate, as we have been taught to believe, it is rapidly becoming bankrupt; that its manufacturers are on their way to the poorhouse; that its resources are meager, refractory, and inaccessible; and that, contrary to the notion that we were marching on toward the capture of the world commercially, we are, in fact, in grave danger of utter extinction unless we raise the tariff walls still higher, to guard us against the attacks of more competent business men, more energetic and more efficient workmen, and more prodigal bounties of nature.

If I believed a tithe of what I have read and heard respecting the manufactures and business of the United States since this extraordinary session convened, I would expatriate myself and seek some country that had a chance in the struggles of civilization, and not continue a profitless life upon this barren, deserted field with the nerveless descendants of a heroic race. Happily, however, I do not believe any part of these tales of misery, woe, poverty, and failure, but am still proudly confident that there is no land so rich as ours, no people so strong and progressive as ours, no future so bright and hopeful as ours, and no destiny so secure and brilliant as ours.

What I have said does not mean, and must not be understood to mean, that I have abandoned one jot or tittle of my faith in the doctrine of protection; but I am as little able to discern the true spirit of this beneficent policy in many of the discussions I have heard from Republican Senators as I have been able to discern the true meaning of a tariff for revenue only in some of the discussions that I have heard from Democratic Senators. I am somewhat bewildered when I hear it gravely announced that protection requires a duty on everything that can by any possibility and in quantity, however limited, be produced in the United States, that will enable the home producer to carry on his business without risk or hazard; just as I am bewildered when I hear a Senator upon the other side of the Chamber declare that a duty upon a competitive product high enough to practically exclude importations is a duty for revenue only.

I have held an altogether different view with respect to protection. Sitting at the feet of the fathers and leaders of the Republican party, I have learned that protection is a policy which imposes upon those products which we are naturally fitted to produce in quantity that will largely supply our home demand, but which it costs more to produce on account of our better paid labor, duties that will enable our producers to make a successful fight with fair profits in our own markets. I have been taught by these fathers and leaders that protection when thus applied will bring the price of the article or commodity affected by it to the American level, and that the stimulus thus administered would speedily enlarge the production, so that we need not look abroad for our supply, and the competition among American producers would prevent the price from rising above the line of reasonable profit.

These are general considerations, Senators, but they lead me at once—

Mr. CLAPP. Mr. President, a matter occurred which prevented me from hearing the Senator when he announced the first of those three propositions, and as his speech will probably not be printed for some days, I would appreciate it if the Senator would repeat the first.

Mr. CUMMINS. I will very gladly read again to the Senator that proposition. It really is but one, I submit to the Senator from Minnesota.

Protection is a policy which imposes upon those products which we are naturally fitted to produce in quantity that will largely supply our home demand, but which it costs more to produce on account of our better-paid labor, duties that will enable our producers to make a successful fight with fair profits in our own markets. I have been taught by these fathers and leaders that protection, when thus applied, will bring the price of the article or commodity affected by it to the American level, and that the stimulus thus administered would speedily enlarge the production, so that we need not look abroad for our supply, and the competition among American producers would prevent the price from rising above the line of reasonable profit.

Mr. GALLINGER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from New Hampshire?

Mr. CUMMINS. I do.

Mr. GALLINGER. I am interested in the Senator's discussion. I notice that he is in favor of protecting Americans who can largely produce what is consumed in this country.

Mr. CUMMINS. That is the way I put it.

Mr. GALLINGER. Does the Senator mean by that to imply that if a concern can produce, for instance, only 25 per cent of the consumption, he would give that concern no protection? In other words, would not the Senator's theory, if it is carried out, wipe out the small concerns of the country and permit only the large concerns to receive the benefits of protection? I ask it in all sincerity.

Mr. CUMMINS. I will try to answer it just as candidly. The precise line to be drawn between those enterprises which should be fostered by protection and those which should not it is impossible to draw abstractly.

Mr. GALLINGER. I agree with the Senator on that point.

Mr. CUMMINS. I will put you an illustration which will convey the idea of one extreme. Suppose that we had in the United States 100 acres of land capable of producing sugar cane, and had no hope whatsoever of enlarging our production of sugar beyond the material produced by the hundred acres to which I have referred. I do not believe that the doctrine of protection would require us to raise the price on the \$110,000,000 or more of sugar that we consume some 2 cents a pound in order to enable the owner of the hundred acres of land to live and prosper in that business. Now, on that I am sure the Senator from New Hampshire will agree with me perfectly.

Mr. GALLINGER. I do agree with the Senator.

Mr. CUMMINS. Now, when we rise from that illustration which represents an extreme to an illustration which would be fairly within the doctrine of protection, I can not draw abstractly the line, nor do I believe any other person can.

Mr. GALLINGER. Mr. President, if the Senator will permit me, I quite agree with him in his illustration, which is a very extreme one; but I will suggest to the Senator that if we had 100 acres producing sugar and had reason to believe that there were millions of acres that could produce sugar if it was properly protected, then we might well impose a duty upon the introduction of foreign sugar until the experiment was tried.

Mr. CUMMINS. I agree with the Senator entirely, and I intend to vote for a duty on sugar for just that reason, and no other.

Mr. GALLINGER. The difficulty with the Senator's statement, as it struck me, was that the word "largely" is one very difficult of interpretation. We have scattered all over this country thousands and thousands of small manufacturing concerns that are giving employment to American labor which would be absolutely wiped out if they did not have some protection. For that reason I think the Senator's statement is possibly subject to a double interpretation, or at least it is very difficult to interpret it so that it will not do injustice to some American interests. I think on the broad proposition that it is sound, and yet it is very difficult to apply it so as not to do harm.

Mr. CUMMINS. Mr. President, it is not so difficult to apply the doctrine in a specific case as it is to render a definition of the doctrine that will be accurate in every case. I believe that the Senate, broadly speaking, recognizes the distinction I am endeavoring to enforce. I can easily mention illustrations that will be beyond the pale of protection. I can easily mention illustrations that are plainly within the doctrine of protection. But when we come to the borderland, that twilight zone, if I may use the expression of a great master of words, then it requires calm, conservative, sane judgment to assign the particular enterprise to the one field or the other.

I have no difference with the distinguished Senator from New Hampshire with respect to what he has said upon the doctrine, but I am about to treat of a subject that is within the doctrine of protection, and everybody recognizes it to be within the doctrine of protection. I intend now to take up the iron and steel paragraphs, or some of them. I intend to give some consideration to the cruder and the commoner forms of iron and steel.

There is no man who recognizes the doctrine of protection at all who does not at the same time realize that if it has won a distinct victory in any field, it is in the production of iron and steel. If there is one thing which can be imputed to the doctrine of protection that stands high above any other thing it is the development in the United States of our iron industry. Therefore, I want all of you to understand that I am speaking of it as one who acknowledges that the protective duties have built up or greatly aided in building up this industry, of which every American citizen must be proud.

We have, with respect to the iron and steel business, a safer guide than we have with regard to any other business which has been submitted to the committee or which will be submitted

to the Senate. We have more satisfactory evidence respecting the facts which must determine what the duties ought to be than upon any other commodities with which I am familiar. Therefore I approach that subject with a little more confidence than I approach any others in these schedules.

We have one institution, one company, that commands practically one-half of the entire iron and steel industry of the United States. Remember all the while that I am limiting my remarks to the common forms and the cruder forms of iron and steel and not to their highly or specialized forms of manufacture. This company does what no other company in the United States does. It has either the strength or the audacity, I know not which, it has that supervailing confidence, to expose its affairs to the people, and it annually publishes a report which enables every man, even the wayfaring man, though a fool, to understand just what it is doing.

I have in my hand its last report, and I propose to prove, just exactly as I used to prove when I tried a lawsuit, to the satisfaction of a jury, and with competent evidence the material facts which ought to control your conclusions with regard to this schedule. If I do not prove it, then I do not ask for my argument any effect or any weight whatsoever.

When this company began in 1901 it had property which was worth at the most optimistic estimate \$600,000,000. No reasonable man has ever put a higher value upon it who knows anything about the subject than the one I suggest. It had property which did not exceed in value \$600,000,000. It represented that property with stocks and bonds issued by it and its subsidiary companies which it adopted, in round numbers, \$1,400,000,000.

Remember I assert that when the United States Steel Corporation was organized in 1901 the entire property upon which it had a right to receive returns, its whole capital upon which it had a lawful privilege to declare dividends or pay interest, did not exceed \$600,000,000, although its stocks and bonds exceeded a trifle over \$1,400,000,000. Some of you may ask how I know that.

Mr. KEAN. What was the market value?

Mr. CUMMINS. I will tell you. Let me give you a little history. I do not intend to disclose professional secrets, but I know something about the organization of the United States Steel Corporation. I know something about the organization of some of the companies which entered into it. I will take one of them. The American Steel and Wire Company was organized in 1898. I know as much with respect to its organization, I think, as any other living man. It was organized with a capital stock of \$90,000,000, \$50,000,000 common and \$40,000,000 preferred. It employed a syndicate manager. I will not disclose his name; it is not material; but it is sufficient to say that the subscription agreement provided that every man who subscribed for one share of preferred stock and paid par for it received one share and a fifth of common stock without any payment whatsoever. I know of the negotiations which led to the purchase of the plants which entered into and became a part of the American Steel and Wire Company, and I know that the aggregate value of all those plants, the most roseate view which could be put upon the value of those plants, did not exceed \$32,000,000.

If any Senator presses me hard enough, he will discover how I know that it was the opinion of those who were interested in the promotion of this company that all the property which was gathered together under its organization did not exceed in value \$32,000,000. This was represented by \$90,000,000 of stock; no bonds. Ninety million dollars of stock of the American Steel and Wire Company represented property that was not worth from any standpoint, whether that of cost of reproduction or that of actual investment of capital, more than \$32,000,000.

What is the materiality of that statement? I will go one step further. When the United States Steel Corporation was organized in 1901, the American Steel and Wire Company was merged into it and became a part of it, and its \$90,000,000 of stock, both common and preferred, entered the capitalization of the United States Steel Corporation at more than par. So \$90,000,000 at least, yes, \$100,000,000, when you add the premium, of the capitalization of the United States Steel Corporation represented property taken from the American Steel and Wire Company, which no man could assert was worth more than \$32,000,000. I assume, and you will believe, that all the remaining property that passed into the United States steel organization passed there upon substantially the same basis.

I know something of the value, too, of the famous Carnegie plant which went into the United States Steel Corporation, I think, at a little more than \$500,000,000. I know that its value was even less proportionately than the value of the property of the American Steel and Wire Company. I know something about the appraisement, the physical appraisement, of the Car-

negie plant that went on between the years 1898 and 1901; and I know, and you all know, that when the United States Steel Corporation finally absorbed the Carnegie plant it absorbed it upon a basis that represented the capitalization of its enormous and extraordinary earnings, and, as the Senator from California would doubtless now agree with me, it had no relation whatever to the original cost or that of reproduction of this mighty plant.

So, when I tell you that the original property of the United States Steel Corporation was not worth more than \$600,000,000, I am speaking of something that I know. I am speaking of something through which I passed, or through a part of which I passed, and I make these observations, therefore, with more confidence than I would about some other businesses, for whose statistics I must take the word of interested importers or interested manufacturers. I agree that the property of the United States Steel Corporation is now worth more than \$600,000,000, because in the meantime that company has added to the property, but it has not added a single penny that it did not add from its unlawful and excessive profits, profits that the United States at least is under no obligation to defend or protect.

Do not imagine that I am insisting that the United States should limit the reward upon capital in a manufacturing enterprise. Far from it. If it be done in an honest and lawful and fair way, I am perfectly willing that its capital shall make any amount of money. I like success. I like to see men become great and prominent and strong in business. But my proposition is that the people of the United States at least are under no obligation to so adjust their tariff law that such a company shall be required to make more than a reasonable profit upon the capital actually invested in its enterprise.

Let me pass on now to the next step. I will take this report that I hold in my hands. It is the report of the year 1903. It is the poorest year, the most unprofitable year, that the United States Steel Corporation has ever had. Its business was stricken with that same paralysis in October, 1907, that fell upon all the business of the United States, and it has suffered in just the same way. But I intend to take this report for that year, and I will rest my conclusions upon the deductions from that report.

Mr. DIXON. Will the Senator from Iowa permit me?

The PRESIDING OFFICER (Mr. OVERMAN in the chair). Does the Senator from Iowa yield to the Senator from Montana?

Mr. CUMMINS. I do.

Mr. DIXON. To follow the story, for what amount did the United States Steel Corporation organize, its bonds and preferred and common stock? Was the figure \$1,400,000,000?

Mr. CUMMINS. Its authorized capital was much more, and it did not issue \$1,400,000,000 of stock of its own. I can not recall the exact amount, but it issued its bonds, for instance, to Mr. Carnegie, and I think possibly that was about all it issued in the purchase of plants. It then guaranteed or underwrote certain bonds of the subsidiary companies, whose technical legal existence still continued and still continues. It purchased certain stocks of its subsidiary companies, which are still held by the United States Steel Corporation. What I meant to say was that the capital of stocks and bonds, issued either by the United States Steel Corporation or remaining in existence on the part of the subsidiary companies, aggregated \$1,400,000,000. That was the capital upon which it at that time sought to earn a profit.

Mr. OWEN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Oklahoma?

Mr. CUMMINS. I do.

Mr. OWEN. I should like to be informed, and I am sure the Senate would, as to what intimacy of knowledge the statement of the Senator from Iowa is based. He suggested a moment ago that he did have the most intimate personal knowledge, and I should like to know what means of knowledge he has with regard to it.

Mr. CUMMINS. Yes, sir; I have no hesitation in answering that question. In 1898 when the American Steel and Wire Company was organized, I was one of the attorneys who brought that company into existence, and therefore I know something with regard to its affairs.

Mr. SCOTT. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from West Virginia?

Mr. CUMMINS. I have not, however, disclosed any information, nor can any persistence on the part of Senators lead me to a disclosure of any information, that I received in my capacity as attorney for the company.

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from West Virginia?

Mr. CUMMINS. I do.

Mr. SCOTT. I want to ask the Senator two questions. First, I will ask him a question which, if it is impertinent, I do not want him to answer: Was it a portion of the stock of the company that the Senator got as attorney for his fees, or was it a cash consideration? I know that when a good many attorneys in my city put these corporations together they get a portion in stock. The next question—

Mr. CUMMINS. Hold on; wait until I answer that question. If I had lived in West Virginia and had been surrounded with the influences prevalent there, I fear that I would be ashamed to answer that question in this presence. But inasmuch as I live in Iowa, with its honest and its upright atmosphere, I can answer that question and tell the Senator that my pay was in cash, and I had nothing whatsoever to do with any part of the capital stock issued by that company or any other. [Applause in the galleries.]

The PRESIDING OFFICER. The occupants of the galleries must refrain from manifestations of applause.

Mr. SCOTT. I presume the Senator does not mean to intimate—

The PRESIDING OFFICER. There must be better order in the galleries.

Mr. GALLINGER. Mr. President, I trust the rules of the Senate will be insisted upon so far as the galleries are concerned.

The PRESIDING OFFICER. The Chair admonishes the occupants of the galleries that they must not indulge in any applause.

Mr. SCOTT. I take it the Senator does not want to intimate that the people of West Virginia are not honest.

Mr. CUMMINS. No. I intended it to be understood that we are creatures of environment.

Mr. SCOTT. The other question I want to ask the Senator is this: As he has stated to us that he was very familiar with this company, I ask him whether he remembers that the preferred stock of the United States Steel Corporation, 7 per cent stock, sold as low as 56 cents, or \$56 on the hundred, in the years 1903 and 1904?

Mr. CUMMINS. Yes, I do; and I wonder that it sold for anything. Why ought it to sell for par? What is the value of it now, however? Answer me that.

Mr. SCOTT. I believe it was quoted yesterday at 119.

Mr. CUMMINS. Yes; its preferred stock has risen to 119, and why? Simply because the United States Steel Corporation is exacting from the American people profits unlawfully—unlawfully from the moral standpoint, at least—and dividing a portion of those profits among the preferred stockholders. Its stock naturally rises to 119.

Mr. SCOTT. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield further to the Senator from West Virginia?

Mr. CUMMINS. I do.

Mr. SCOTT. Will not the Senator admit that by the combination, and perhaps by the betterment and by better management, a part of these profits could have been made without making them dishonestly?

Mr. CUMMINS. I withdraw the word "dishonestly" so far as the profits are concerned. They are dishonest from the moral standpoint, but they are not dishonest from the legal standpoint, and I want to be absolutely accurate. But, answering the question of the Senator from West Virginia, I say, after the mature reflection of many years, after all the study that I have been able to give to this subject, I can not believe that the United States Steel Corporation, taken as a whole, produces a single ton of steel more cheaply than its constituent companies or more cheaply than the so-called "independent" companies, concerning which there is so much solicitude in this bill.

Mr. SCOTT. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from West Virginia?

Mr. CUMMINS. I do.

Mr. SCOTT. I wish the Senator, while making his speech, would suggest to the Senate that the United States Steel Corporation is a profit-sharing concern; that they share their profits with any of their employees who desire to participate in the profits. Is not that true?

Mr. CUMMINS. Not at all, in the sense in which your words would ordinarily be understood. It is true that the United States Steel Corporation has given to its employees, as it has given to the whole world, the opportunity to buy its capital stock, if that is an advantage.

Mr. SCOTT. At a less figure and on a time payment?

Mr. CUMMINS. I am not prepared to speak with regard to prices, because I have not compared the prices at which stock

was offered to employees with the price which at that moment it brought upon the market; but I do say that I agree to the policy of interesting employees in the enterprise in which they are engaged, and I commend this policy on the part of the United States Steel Corporation. I am not, however, able to agree to the proposition that it therefore becomes a mutual company, or that it admits its employees to its profits in any other sense than it admits anybody else who may buy its stock. I could go on the market now and buy any quantity of its stock which I cared to buy if I had the money with which to buy it. So can its employees. The company has just made it possible for the employees to buy now and then some of its stock, and they have bought how much? Does the Senator from West Virginia remember? If he does not, I will refresh his memory. They have bought up to this time something like \$20,000,000 worth of common stock of the company.

Mr. SCOTT. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from West Virginia?

Mr. CUMMINS. I do.

Mr. SCOTT. I only know that a great many industrious and sober men who are working for the United States Steel Company have been given time within which to buy its stock, and thereby accumulate something for old age and for their families, which possibly they never would have been able to have done under any other circumstances.

Mr. CUMMINS. I do not at all censure, I assure the Senator from West Virginia, that policy. I think it is a very wise one, and I believe that in some appropriate way every great industrial enterprise ought to enlist the sympathy and attach, if you please, the affections of its employees by some such provision; but that does not alter the statement that I made a few moments ago.

Mr. SMOOT. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I do.

Mr. SMOOT. Is it not also true that the United States Steel Company guarantees to all of its employees that they will not lose any money on the purchase of stock from the company?

Mr. CUMMINS. I think so.

Mr. SCOTT. That is correct.

Mr. CUMMINS. Mr. President—

Mr. SMOOT. One other thing. My attention has been occupied from morning until night at all times when I have not been in the Senate Chamber with men who are interested in the manufacturing of steel and iron. They have not been from the United States Steel Company, but from the independent manufacturers of this country. Does the Senator from Iowa feel that we ought to have a duty so low as to chastise, as it were, the United States Steel Company, and, by so doing, drive all of the independents out?

Mr. CUMMINS. Mr. President, I hope the Senator from Utah will not impute to me any desire to chastise. I do not desire to chastise the United States Steel Corporation.

But, coming to the Senator's other suggestion, I will say that I intend to vote—although I believe that the United States Steel Corporation is making its product cheaper than it is made at any other place on the face of the earth—I intend to vote for a duty that will protect these so-called "independent institutions," although they are not independent, and although I believe they produce their product as cheaply as the United States Steel Corporation produces its product. Do not misunderstand me when I say I do not believe they are independent; I do not mean they are in association with the United States Steel Corporation, but what I do mean is that the commanding power of the United States Steel Corporation in the trade robs these institutions of their independence, however much they might like to be free and to follow their own course. So long as the United States Steel Company will hold the prices up these independent companies gladly follow; but whenever the United States Steel Company forces the prices down, these independent companies must necessarily follow. Therefore they are not independent in any proper sense of the word, because their will does not fix the price of this commodity in the United States.

Mr. SMOOT. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I do.

Mr. SMOOT. The independent steel manufacturers in the United States are manufacturing now about 60 per cent of the product of this country.

Mr. CUMMINS. A little less than that, I think.

Mr. SMOOT. That is near enough, anyway.

Mr. CUMMINS. They manufacture about 8 per cent less than that, I believe, although the Senator's information may be better upon that point than mine.

Mr. SMOOT. Then we will grant 52 per cent, although my information is that it is about 60 per cent. There has not been an independent steel manufacturer before the committee or in my office who has not frankly admitted that the independent companies can not make steel and iron as cheaply as can the United States Steel Company. The question arises as to how far we should reduce these rates and whether they should be reduced so low that all of the independent steel manufacturers in this country can not live. So far as I am concerned, I want a rate which will protect the independent steel and iron manufacturers of this country so that they can live. I want the rate no higher and no lower than that.

Mr. CUMMINS. Mr. President, I have the same purpose in view, but I will convince the Senator before I have finished that we ought to cut these duties exactly in two, and that would be a high protection even for the independent companies. Of course, I am not speaking about iron ore, which I think ought to come in free.

Mr. CRAWFORD. Mr. President, if the Senator will permit me—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from South Dakota?

Mr. CUMMINS. I shall be glad to yield to the Senator.

Mr. CRAWFORD. There is a point which has troubled me very much in examining the testimony, particularly that of Judge Gary and Mr. Schwab, given before the House committee, and I should like to call the Senator's attention particularly to it. The point is, how any tariff can be of any help upon these more important items to any so-called "independent producer?" For instance, Judge Gary says that the United States Steel Corporation owns its ores, that it owns its water-transportation facilities, that it owns its railway-transportation facilities, that it can produce pig iron at least \$2 cheaper a ton than can any competitor anywhere, and that it has no competitors except those who are allowed to exist by sufferance. He makes that statement frankly, and I do not understand that it is anywhere questioned.

Now, if the United States Steel Corporation can produce pig iron at least \$2 cheaper a ton than can any competitor anywhere, and if it has no competitors in the United States, except those whom it simply tolerates because it thinks that it would create too much resentment on the part of the public if it put them out of business, then how can a tariff, for instance upon steel rails and pig iron, help these so-called "independent producers?" They exist by the sufferance of the United States Steel Corporation, and it being able to produce pig iron lower than they can, the United States Steel Corporation absolutely controls competition and prices. So how can this tariff help them? That is the point that I desire to have explained.

Mr. SCOTT. Will the Senator from Iowa permit me to answer that question of the Senator from South Dakota?

Mr. CUMMINS. I would rather answer it myself.

Mr. SCOTT. Just a moment.

Mr. CUMMINS. The question was directed to me.

Mr. SCOTT. I only want to say that there are independent companies—

Mr. CUMMINS. I propose, Mr. President, to answer the question myself, although I have no desire to prevent the Senator from West Virginia from answering it at the proper time.

Mr. BEVERIDGE. I hope the Senator from Iowa will permit the Senator from West Virginia to make his statement now. We are all, on both sides, interested in the question.

Mr. CUMMINS. That is very true; but I prefer to close, if I can, speedily what I have to say on this subject. I have already taken hours more than I proposed to take; but I will answer now the question of the Senator from South Dakota [Mr. CRAWFORD], and I will show to him in a few moments how the duties might help the independent manufacturer.

Mr. SMOOT. Let me suggest this to the Senator—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I do.

Mr. SMOOT. Then the Senator can answer this suggestion at the same time: The United States Steel Company are not sellers of pig iron, but purchasers of it.

Mr. CUMMINS. I understand.

Mr. SMOOT. I just make that suggestion.

Mr. CUMMINS. I understand that.

Mr. SCOTT. I am very sorry—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from West Virginia?

Mr. CUMMINS. I do, for a question.

Mr. SCOTT. I desire the Senator to yield for a reply.

Mr. CUMMINS. I do not desire—

Mr. SCOTT. The Senator from Iowa made an assertion, and the Senator quoted Judge Gary. I want to disabuse the minds of both Senators and to say that the statement was not correct. That was all. But if I am not to be allowed to make the statement, of course—

Mr. CUMMINS. Whether the statement is correct or not, it makes no difference to me. My answer to the question arises from information received in an entirely different way. I answer the question of the Senator from South Dakota directly. If the United States Steel Corporation would sell its product at a fair price, for a reasonable profit, then the duty could be of no avail, either to it or to any independent company; but if the United States Steel Company, sheltered by a duty, raises its price beyond a fair level, then the independent companies share in the protection that is afforded this company by the tariff law. In other words, they are not then compelled to compete with producers across the sea. That is the way in which a reasonable tariff might possibly help the independents. I want to be absolutely frank with regard to this matter, because I intend to vote for a reasonable duty upon iron and steel.

But I will return now to the analysis of the United States Steel Corporation. Possibly many of you have read it; but I want to give you the profits of this company for the last year. I wonder if there is a single Senator here who has analyzed this report. I will not stop to give you in detail the figures, but the profit; that is, the amount of earnings after paying all expenses of maintenance and of operation, and which, if the company did not desire to create a sinking fund for the retirement of its capital and did not desire to enlarge its plant, would be available for dividends upon its stock and for interest upon its bonds—the total net income, without considering the reward of capital—amounted to \$99,358,585.69.

Mr. McCUMBER. Upon what real investment?

Mr. CUMMINS. Upon a real investment of less than \$600,000,000. Ninety-nine million dollars—remember that—\$99,000,000 was the income of this company last year, available for a reward upon capital or upon any retirement of capital or for an enlargement of property.

Now, I am willing, as I said before, that this company shall make any profit that it can, but I think you will all agree with me that if the Government does not interfere further than to permit it to earn 6 per cent upon its capital it may well submit the remainder of its profit to the ordinary risk and hazard of business.

We shuddered last year when it was proposed that the Government should guarantee bank deposits, and many of us recoiled from that proposal, because we believed it to be full of menace and disaster to our financial system; and yet the duties which are now presented to us in effect guarantee the business of this company not only 6 per cent, not only 10 per cent, but more than 16 per cent.

I will give them an advantage of \$100,000,000, because I think their property has increased in value that much, although increased out of the earnings. Take \$700,000,000, reimburse it with a 6 per cent dividend, and what have you? Forty-two million dollars. Deduct that from \$99,000,000, and what remains as the excessive, unlawful profit of the United States Steel Corporation? There remains \$57,358,585.69.

Mr. GALLINGER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from New Hampshire.

Mr. CUMMINS. I do.

Mr. GALLINGER. I think the Senator must use the word "unlawfully" inadvertently. The Senator does not mean to say that an individual or a corporation may not lawfully receive more than 6 per cent upon an investment?

Mr. CUMMINS. Mr. President, I endeavored to explain that a few moments ago. That word comes easily to the tongue, and because I can not entirely shut out of my consideration the moral aspects of the affair, therefore the word "unlawful" creeps in; but I agree with the Senator from New Hampshire that the profits are not unlawful, viewed from the legal standpoint.

Mr. GALLINGER. They may be excessive, but not unlawful.

Mr. CUMMINS. Well, whenever my moral notions overcome me in the heat of debate, the word "unlawful" may unwittingly appear upon my tongue.

Mr. SCOTT. May I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from West Virginia?

Mr. CUMMINS. Certainly.

Mr. SCOTT. Does the Senator think that 6 per cent is sufficient for a man who engages in the manufacture of any article, when the majority of men who have money can loan it out at 6

per cent on first mortgage? Ought not a manufacturer, who takes the risk and employs labor, have a greater return than simple interest?

Mr. CUMMINS. He should. I answer the question categorically and affirmatively; but that is quite a different proposition from admitting that it is the duty of the Government to interfere in order to permit him to earn more than 6 per cent or to insure him a reward of more than 6 per cent. If the United States Steel Corporation can, in competition with the world, make 20 per cent, I for one shall not stay its hand. I am only saying, in behalf of those who are affected by the price of this product, that we ought not to interfere in order to insure more than 6 per cent upon its capital.

Mr. BRIGGS. I should like to ask the Senator from Iowa one question.

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from New Jersey?

Mr. CUMMINS. I am glad to yield.

Mr. BRIGGS. Does that \$99,000,000 profit include the depreciation? Was that calculated before any charge for depreciation was taken off?

Mr. CUMMINS. It was not. It is a little difficult to ascertain just what is meant by some of the items. The net profit, as given in the report, is \$91,000,000, but that excludes the interest that has been paid upon the bonds of subsidiary companies, and it excludes the sinking fund, because it is the policy of the United States Steel Corporation to accumulate every year a sinking fund that in ten or fifteen years will retire all of its bonded capital. You and I have paid enough for its products, aside from ordinary rewards upon capital, to retire in about fifteen or twenty years every dollar of its bonded debt.

Mr. BRIGGS. One question further. I should like to ask the Senator what he thinks is a reasonable depreciation charge in the steel or iron business?

Mr. CUMMINS. Nothing whatsoever if the property is properly cared for, properly repaired, and if proper replacements are made. The depreciation percentage depends entirely on the manner in which the company takes care of its property.

Mr. BRIGGS. Mr. Abram S. Hewitt once made the statement that every sensible or practical manufacturer of iron and steel products should allow for the complete rebuilding of his plant once in every seven years, or, in other words, one-seventh of the cost should be allowed for depreciation.

Mr. CUMMINS. And that is just what the United States Steel Corporation is doing; and for that expense I have made allowance.

Mr. DEPEW. Mr. President, I should like to ask a question of the Senator from Iowa.

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from New York?

Mr. CUMMINS. I do.

Mr. DEPEW. If the profits of the United States Steel Corporation are so exaggerated as the figures which the Senator presents would seem to show, why is it that the independent companies, which are not overcapitalized a dollar, are unable to pay dividends upon their capital? I know one company in particular, in which friends of mine are interested, which has something like thirty-odd million dollars paid in in stock and more than thirty-odd million dollars have been borrowed upon mortgages; there is not a penny of water in it; it is all honest money; and yet, though they are doing a large business in competition with the United States Steel Corporation, they have not since they started been able to pay a penny of dividend upon their stock.

Mr. CUMMINS. I do not know why it is. I do not know anything about the affairs of that company. It would be impossible to answer the question intelligently without having information with respect to its management, its location, and the circumstances under which it does business. I hope that we will get rid of the idea, which I have heard uttered more than once in the Senate, that because some business man or business concern does not prosper, or because he or it fails, therefore it is our duty to enlarge or enhance the tariff upon the things he manufactures or it manufactures or sells. I can not tell why it is so in the case put by the Senator from New York. I am willing to accept implicitly his word for the fact; but I am not able to explain it. I am dealing just now with the United States Steel Corporation, whose report is before me.

Mr. DEPEW. One further question. I ask for information, and I do not desire to embarrass the Senator in any way.

Mr. CUMMINS. It is impossible. [Laughter.]

Mr. DEPEW. I understand that perfectly.

Mr. CUMMINS. That is, so long as I have the truth on my side.

Mr. DEPEW. I presume you have, and that is the reason I am asking, because I desire truthful information. The testi-

mony, as I understand, before the House committee showed that the United States Steel Corporation can make all classes of steel products \$2 a ton cheaper than the independent concerns in the country, which have about 60 per cent of the business. If you take the tariff off in order to hit the United States Steel Corporation, the independent concerns believe it would wipe them out of existence and give the United States Steel Corporation the command of the market, and then that corporation could combine with the foreign companies, and we would be at the mercy of a gigantic international combine. How would you get over that?

Mr. CUMMINS. Sufficient unto the evil is the day thereof.

Mr. BEVERIDGE. You have put the cart before the horse.

Mr. GALLINGER. "Sufficient unto the day is the evil thereof."

Mr. CUMMINS. I reversed the quotation intentionally. I, however, have not ventured to look forward to that disastrous day on which all the industries of the United States and all the industries of the world shall be concentrated in a single hand or a single board of directors. I suppose that when that day dawns, when a single mind directs the energies of the earth and controls the fortunes of mankind, so far as manufactures are concerned, there would still remain the lamp-post for the common people. I know of no other remedy for that kind of slavery. I can not believe that it ever will be imposed upon either the people of the United States or the people of the earth; but if it ever is, you may be sure that the millions will find some way to shake those shackles from their wrists, just as they have found a way of emancipation in every other emergency in the history of the earth. Such is my answer to the last inquiry.

Now, first, I do not believe it to be true, even though it is so testified before the House committee, that the independent companies make steel products at a cost of \$2 a ton more than the United States Steel Corporation. I do not believe that, but, if it be true, then I say give to the steel business, as I intend to give to it, a sufficient duty to cover that difference between the cost of manufacture by them and the cost of manufacture by the United States Steel Corporation, and you can still give them that duty, which will protect them against foreign competitors, and reduce by 50 per cent the duties that are reported in this bill.

There is a reduction in this schedule. I omitted to say that; but I want to pay a tribute to the Finance Committee. I omitted to say that this is one of the schedules in which there is seen a reduction, but they might just as well have left it where it was. I do not believe that there is a single member of the Finance Committee who believes that the buyer or user of iron or steel will receive the product for one cent less than he would have done had the duties remained as they were. Why? Because they are not sufficiently reduced to touch the United States Steel Corporation by the fear of foreign competition.

Mr. DEPEW. Will the Senator allow me to say just one word on the lamp-post question—not a speech?

Mr. CUMMINS. I know what the Senator would say.

Mr. DEPEW. I do not intend to make a speech.

Mr. CUMMINS. Mark you, I am not advising the lamp-post remedy; but it has been applied in times past, and it sometimes is the only relief from the slavery that the Senator suggested, the slavery that would come to the American people.

Mr. DEPEW. I simply want to state something that occurred in my own experience. There was a controversy in reference to a matter of investment when I was the counsel for the late Mr. Vanderbilt. A leader of the opposition got so bitter about it that he said to me personally that when any man became so rich and could accomplish so much by his own individual wealth as could Mr. Vanderbilt, he should, for the safety of the community, be hung to a lamp-post by the people.

I said to him, "Do you think a man worth \$10,000,000 should be hanged to a lamp-post?" He said, "No. I think that amount is absolutely necessary for the conduct of legitimate business." I knew that was the exact amount he was worth. [Laughter.]

Mr. CUMMINS. The Senator from New York, I think, will agree that tested by my own condition I shall never draw the line at that point.

Mr. DEPEW. In other words, that everybody under that doctrine wants to hang the man who has a little more than he has.

Mr. CUMMINS. I know that is the New York view. [Laughter.] I have heard it expressed so often that it has become very familiar to me; and the Senator from New York, in his charming and agreeable way, would leave the impression that I suggested there would come a time when the man of wealth, as distinguished from the man of poverty, would find his last resting or hanging place on a lamp-post. You did not understand me so to suggest.

Mr. DEPEW. No.

Mr. CUMMINS. You understood me to say that if the event that you predict should come to pass, namely, that these men not for legitimate profits, but for the purpose of coercing the whole world to their will, should monopolize an essential fundamental interest or enterprise of this sort and exact from a defenseless people whatsoever their avarice or greed might suggest, then to rid themselves of such a master—an impossible master because he never will arise—if the law should fail, the lamp-post might furnish an efficient remedy. But I pass on.

Mr. ALDRICH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Rhode Island?

Mr. CUMMINS. I do.

Mr. ALDRICH. I have not been able to hear the whole of the Senator's argument. He made a suggestion a few minutes ago about the character of reduction, saying that the reductions in the steel schedule, for instance, would not be effective. To what extent does the Senator think reductions should be made in order to be effective—that we give the American market to the foreign manufacturer, or what? Where does the Senator draw the line, if it will not embarrass him to answer?

Mr. CUMMINS. The Senator from Iowa is not embarrassed by answering. If the duties of the Senator from Rhode Island had not demanded his absence from the Senate Chamber during the early hours of the day he would have heard a confession of faith upon my part that would have answered that question. I do not believe in lowering the duties to the point that will enable the foreign producer to take our market. I am arguing with respect to the degree of duties that will enable our producers to hold fairly our markets, but will prevent our producers from raising their prices above the fair American level. And I will answer the question specifically, inasmuch as it is asked, although I intended to answer it as the closing paragraph of my speech.

From the information which I have, and a part of which I am about to give to the Senator, and a part of which I have already given the Senate, I think if you would cut these duties on iron and steel—I am now talking about the cruder and commoner forms of iron and steel; pig iron, although it might well go upon the free list for other reasons, but not for protective reasons, I agree; pig iron, billets, ingots, steel rails, wire rods, slabs, structural iron, and wire, and such like—I think if you cut those duties in two in the bill you have now reported, and after all the reductions made by the House, you might give to the American people some assurance that the products would not be raised above a fair and reasonable price and not one pound more of iron or steel could be imported into the United States than now is imported, provided the prices were reduced to the point that I am about to show you they ought to reach and still give this company full, complete profit in their business.

I have said that this company made last year, in round numbers, \$57,000,000 more than it ought to have made. What did it do? It produced—I will not count its by-products—in its business steel of various kinds, in round numbers, to the extent of 6,250,000 tons. That is the product of this company, with its expense of more than \$400,000,000. That is the product which, being sold, resulted in the profit of \$99,000,000 and more. That is the product which created this excessive profit of more than \$57,000,000.

You have no right, I have no right, to sit here and insure a profit more than I have suggested. As I said before, if in the great struggle the company can make more, well and good; but you and I will be traitors to our duty and our obligation—not only to our constituencies, but to the whole country—if we frame a tariff bill that will insure a profit of the kind I have suggested. What are they? Divide the profits by the entire tonnage of this company, which now puts out more than one-half of the entire product, and it means \$9.24 a ton of excessive profit upon the average. This company last year sold its entire product upon an average of \$9.24 a ton more than it should have sold it for, so far as we are concerned.

Mr. ALDRICH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Rhode Island?

Mr. CUMMINS. Certainly.

Mr. ALDRICH. Does the Senator think that a duty of \$7.84 a ton enables the United States Steel Company to make a profit of more than \$9 a ton?

Mr. CUMMINS. I am glad you asked that. I will read a letter on that subject.

Mr. ALDRICH. Why have any duty? Why not pay a bounty on foreign exportations for the purpose of still further reducing the profits of the steel company?

Mr. CUMMINS. I suppose, if the Senator from Rhode Island means to exercise his wit—

Mr. ALDRICH. Not at all. The Senator said we ought to reduce the profits.

Mr. CUMMINS. I supposed we were engaged in a serious debate.

Mr. ALDRICH. This is a serious debate. The Senator says we ought to reduce the profits of the United States Steel Company to a normal point. That is what I understood. He says it made a profit of nine dollars and some odd cents a ton more than it ought to have made.

Mr. CUMMINS. Yes; I said \$9.24 more than was necessary to enable that company to pay 6 per cent upon its capital; and that, so far as the Government of the United States was concerned, our full duty would be done when we so adjusted our schedules as to enable that company or any other to earn 6 per cent upon its capital. That is my proposition—not as stated by the Senator from Rhode Island.

Mr. ALDRICH. The Senator will see, as a mathematical proposition, that if steel rails were put upon the free list, the company would still be earning a dollar and some odd cents a ton more than they should have, according to the Senator's contention.

Mr. CUMMINS. I am not concerned in that. I do not care; I do care, but—

Mr. ALDRICH. I thought the Senator was engaged in a discussion to show us how we ought to adjust the rates upon iron and steel so as to take away from this company its inordinate profits. I thought that was the point.

Mr. CUMMINS. It is not so.

Mr. ALDRICH. Then, I misunderstood the Senator.

Mr. CUMMINS. It seems to me the Senator from Rhode Island easily misunderstands me. I said if the company had sold its products for \$9.24 a ton upon an average less than it did, it would still have made 6 per cent upon its lawful capital, if the Senator from New Hampshire will permit me again to use that term.

Mr. GALLINGER. I am sorry the Senator uses it.

Mr. CUMMINS. I am not concerned with regard to the amount of its capital or the return upon it, except to show that much less duty than you have put upon these products would be sufficient to protect the iron industry, if it would reduce its prices to a fair American level.

Mr. DIXON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Montana?

Mr. CUMMINS. Certainly.

Mr. DIXON. Will the Senator yield to me for just one question?

Mr. CUMMINS. Certainly.

Mr. DIXON. As I understand, the Senator has given the figures for 1908. Does the Senator have the earnings of the United States Steel Company for 1907? I ask for it as a matter of curiosity.

Mr. CUMMINS. I have not the exact figures before me, but I know in a general way what they were. The net income for 1908 was \$99,000,000, and a corresponding statement for 1907 would be, in round numbers, \$170,000,000.

Mr. DIXON. As against \$99,000,000?

Mr. CUMMINS. As against \$99,000,000. As I remember it, the net profits that were acknowledged in 1907 were \$160,000,000.

Now, pursuing this one step further—and I know I can show at least the point I am endeavoring to make clear to Senators—

Mr. GORE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Oklahoma?

Mr. CUMMINS. I do.

Mr. GORE. Before the Senator passes from this point, I merely wish to observe that, as I understand, the principal object of a high tariff is to guarantee high wages; that the manufacturers insist upon high rates in order that they can pay high wages.

Mr. CUMMINS. Mr. President, I decline to yield for a speech. I am nearing the conclusion I desire to reach.

Mr. GORE. I beg pardon.

Mr. CUMMINS. And I can not yield to the Senator from Oklahoma for a speech, however much he may desire to help me.

Mr. GORE. Then, I will propound a question.

Mr. CUMMINS. If he has any question to ask me, I will be delighted to answer it.

Mr. GORE. You say that the net profits last year were \$99,000,000; that the net profits in 1907 were a hundred and sixty-odd million dollars. I merely wish, if the Senator has them at hand, that he will state the total amount of wages paid.

Mr. CUMMINS. I have them at hand, and if the Senator will be patient, I will give them to him before I take my seat.

Mr. GORE. I thank you.

Mr. CUMMINS. I repeat my conclusion, that this company could with great prosperity have sold its product for \$9 a ton less last year.

Now I ask some member of the Finance Committee or some other man in the Senate some time during the progress of the debate and before we dispose of the iron and steel schedule, to answer this question: Was there upon an average a difference of \$9.24 between the selling price of these forms of steel abroad and at home? Do you not know that the \$9.24 I have suggested represents a great deal more than the difference between the market price of iron or steel in London, or Liverpool, or Brussels, or Paris, and the United States? So that—you know it as well as I—the United States Steel Company could have sold every pound of its products at the market prices of those products in the markets of the world and still have paid 9 per cent upon its capital, computed in the way I have suggested.

With such facts, that can neither be gainsaid nor ignored, will any man tell me that in order to protect the United States Steel Corporation, which last year could have sold its products at less than such products were being sold anywhere in the world and still have made a high profit on its capital, an average duty of \$12 or \$14 a ton is necessary? I am sure that the mere statement of that proposition will drive home this one conclusion, and that is, so far as this corporation is concerned, it needs no protection whatsoever. It can go into the world and hold its own and make immense profits, even upon its inflated capital, and yet it produces 52, 53, 54 per cent of all the iron and steel of the United States, and it absolutely fixes the prices of every pound of iron and steel, notwithstanding these independents of whom mention has been made. Now, nevertheless, I am willing—

Mr. GALLINGER. The Senator did not mean 54 per cent, did he?

Mr. CUMMINS. I did.

Mr. GALLINGER. I think the Senator admitted a little while ago that the independents produced nearly 60 per cent.

Mr. CUMMINS. Oh, no, sir.

Mr. GALLINGER. It ought to be 42 per cent.

Mr. CUMMINS. I was not including the Tennessee Coal and Iron Company. I did not desire to bring that into contention here. It is a sore spot in Republican politics, and I did not desire to raise the ghost of the Tennessee Coal and Iron Company. Therefore I admitted a few moments ago that the independents produced 52 per cent; something in that neighborhood.

But at any rate, the United States Steel Corporation produces enough to command the situation. When it raises prices the independents are glad to follow, and when it depresses the market the independents must submit, and for their sake I am willing to put a fair duty upon iron and steel. For their sakes, I am willing to put upon these commodities a duty which, in my opinion, measures and more than measures the difference between their cost and the cost abroad, and that will be accomplished by dividing the duties in the bill, and thus you will be able to fulfill not only the obligation to the people of this country, whose voices have risen for a substantial reduction of duties, but we upon this side can fulfill the obligations which we have assumed as members of our political party.

Mr. ALDRICH. Will the Senator allow me to ask him a question?

Mr. CUMMINS. Certainly.

Mr. ALDRICH. As I understand the Senator from Iowa, he is proposing a new method for computing specific duties. He suggests that, in the first instance, we should ascertain what ought to be the capital of a company engaged in the production of any of these articles, and then determine what rate of interest or dividends should be paid by that company, and fix the rates according to the results which are ascertained by this method.

I supposed that we were proceeding upon the theory of taking into consideration the difference in the cost of production in our country and in competing countries. That is the rule which I supposed was to apply in the consideration and preparation of these schedules. If the Senator from Iowa is correct, and if we are now to take into consideration the valuation of all the property in the United States, with a view of ascertaining as to what companies are overcapitalized and as to what dividends shall be paid, we are to be led wide astray in the consideration of this question from any proposition which I have heretofore heard suggested.

Mr. CUMMINS. If the Lord had endowed me with that simple ingenuity of which the Senator from Rhode Island is such a master, I might be able to retort in kind, but I do not know any way in debate but to go straight at the truth. That

is a fashion I have taken on. It is a custom which has gradually grown on me, and therefore I will have to come to the Senator from Rhode Island with just a plain statement of the fallacy of his remark. I do not suppose I am teaching the Senator from Rhode Island anything. I am not exposing to him the want of candor of which he has just been guilty, but I am answering the statement just as plainly as I can.

I passed through this statement and made this argument for the very purpose of proving how much it cost the United States Steel Corporation to put out its products, and if I have not proved that it costs that company less than it costs any other company in the world to produce iron and steel, then I have failed in my conclusion.

I care nothing about the profits of companies except to show the cost of production, and when I have established, as I know I have in the minds of all impartial men, that the United States Steel Corporation is producing its products at less cost, as determined by market prices, than any other company, whether in the United States or elsewhere, then I have at least reached a consideration of the duties that ought to be put upon these articles in order to protect those companies that are said to work under greater disadvantage.

Mr. ALDRICH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Rhode Island?

Mr. CUMMINS. I do.

Mr. ALDRICH. By the process which the Senator has employed, is he able to state to the Senate definitely the relative cost of making steel rails, for instance, in the United States and in Germany?

Mr. CUMMINS. No more than you. You do not know, and no man knows.

Mr. ALDRICH. I am asking the Senator whether he is able—

Mr. CUMMINS. I am not—

Mr. ALDRICH. To arrive at any such conclusion from the statement which he has made.

Mr. CUMMINS. I do not know.

Mr. SCOTT. Will the Senator from Iowa allow me to ask him a question?

Mr. CUMMINS. I yield.

Mr. SCOTT. Do I understand the Senator to say that the United States Steel Corporation turns out its products cheaper than any other concern in this country or in the world?

Mr. CUMMINS. Yes; as determined by their profits.

Mr. SCOTT. I ask the Senator if he has investigated the cost of the products of the La Belle Iron Works, of Wheeling, W. Va., a corporation of \$12,500,000, owning their own ore lands, their own coal lands, with all the advantages that the United States Steel Corporation has? I should like to know if he can tell us what it costs that company to make its products?

Mr. CUMMINS. I can not.

Mr. SCOTT. Then why should the Senator make the positive statement that the United States Steel Corporation can make its products at \$2 a ton less than anybody else in the world?

Mr. CUMMINS. I did not say so.

Mr. SCOTT. You said it could make it for less than any concern in the world.

Mr. CUMMINS. I do. I say that the profits of the United States Steel Corporation upon its product are greater than the profits of any other company in like business on the face of the world, and if that does not show that they make their products or their output at less price than any other company, I fail to appreciate the force of reasoning.

Mr. ALDRICH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Rhode Island?

Mr. CUMMINS. I do. I have a letter from Mr. Schwab, if I could find it—it was on my desk—that would answer the inquiry of the Senator from Rhode Island. It shows what it costs to make steel rails.

Mr. ALDRICH. Not the inquiry which I am about to make.

Mr. CUMMINS. I proposed to answer the first, and then I would turn to this.

Mr. ALDRICH. I should like to have an answer to this question. As I understand the Senator, the statement he now makes is based upon the idea of profits alone, as to the comparative cost of production in this country and abroad. The Senator suggests no item of actual experience, no item of ascertainment as to the actual condition or the actual cost, as to any one single item of the products of the United States Steel Company and companies abroad.

Mr. CUMMINS. No. I accept evidence which I regard as vastly better and more persuasive. What I say is, that the

United States Steel Corporation makes 6,000,000 tons of iron and steel; and if, after paying all the expense incident to the operation of its factories and incident to the output, the company has \$99,000,000 left—if that does not indicate to you something about its cost of production, it does seem to me that you have shut your ears to the conclusive force of testimony.

Mr. DEPEW. I should like—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from New York?

Mr. CUMMINS. Certainly.

Mr. DEPEW. I should like to ask the Senator from Iowa whether there is not a fallacy in basing the cost of production upon the profits as between different manufacturing concerns or competition in any business? It is a well-known fact that the larger the sales, the less price—

Mr. CUMMINS. I beg your pardon. Will the Senator kindly restate his inquiry? I was guilty of unpardonable neglect in being diverted for a moment.

Mr. DEPEW. What I wanted to ask the Senator is, Whether he would not admit that there is a fallacy in the foundation of his argument, which is that the cost of production can be ascertained by the profits? Can not a concern doing a business a thousand times greater than another make money, and large money, and put the other out of business when the cost of production is exactly the same?

Mr. CUMMINS. Yes, sir.

Mr. DEPEW. Then, it is not a proper basis.

Mr. CUMMINS. I think it is. If you could conceive of a manufacturer who made just one steel rail in a year and would sell it at the rate of \$28 a ton and out of it would have to pay for his own time, his own bookkeeping, and whatsoever other incidental expenses might be added, he would soon go out of business. But whenever a company is so enlarged that it fully employs the unit of production, the entire energy of any given unit, whatever the unit may be, then that company, granting the same opportunities to purchase the raw material and the same privileges of transportation, can make its product just as cheaply as the other company.

But, however, I have not descended into those finer questions. I want to give to the steel companies or the iron companies an average duty, we will say, of \$8 a ton on all these products, adjusted according to the scale that has been recognized in all time. But I do not want an average duty of \$12 or \$14 a ton when I know that it simply means to add so much to the burden of those who use or buy these products.

Mr. ALDRICH. If the Senator from Iowa will permit me, has he any statistics or figures which show the capitalization and the profits of foreign manufacturers of iron and steel?

Mr. CUMMINS. I have not.

Mr. ALDRICH. Has the Senator any knowledge of the range of production—

Mr. CUMMINS. I want to qualify that last answer a little. I have that evidence upon which all men act in their lives, namely, the information that comes to us from every quarter in newspapers, in pamphlets, in reports, and in general commercial affairs. That is the information upon which I base the statement I made a few moments ago.

Mr. ALDRICH. Has the Senator from Iowa any information as to the number of articles made by the United States Steel Corporation, the range of their productions, and the profits which are derived from each class of the articles made by them?

Mr. CUMMINS. I have not. I take it that if I have convinced you that these duties are too high, as a whole, you will not allow any pride of opinion to stand against a reformation of these schedules. I take it for granted that if I have convinced you that the duties are too high you will reject this schedule and apply that superior information which relates to these niceties of details and will return to the Senate a schedule properly adjusted that will fairly but not excessively protect this industry.

Now, I have but another word to say. I do not mean to say that when I have finished this address you are through with me for all time, for I expect to be heard as these schedules are discussed. But there were some general considerations that I felt I ought to submit before we reach the distinct paragraphs.

I have had in mind to speak in regard to the iron ore. I shall wait, however, until the moment that we reach the paragraph. The Senator from Oklahoma suggested a few moments ago a very interesting topic, and, inasmuch as the Senator from West Virginia also commented upon the munificence of the United States Steel Corporation, I beg that you will bear with me until I quote you just what that company did last year. In all its salaries, from the two \$100,000 presidents—I believe there are two, possibly more—from the shining head to the lowest messenger boy upon the pay roll, the company paid out \$120,510,829,

just \$20,000,000 more than its net income for the same year. All its salaries, however high, or its wages, however low, aggregated \$120,000,000. It had as the result of their labor \$100,000,000, in round numbers, of income. There were 165,211 of those people, and that meant that they got on an average \$730 a year. That includes Mr. Gary; it includes Mr. Corey; it includes every other of these employees whose capacities and whose energies and whose experience entitled them to large salaries, just as it includes the man who works in the iron mine at Lake Superior.

Mr. BEVERIDGE. Will the Senator permit me a question?

Mr. CUMMINS. I will.

Mr. BEVERIDGE. Taking the salaries of the officers, the presidents and other large salaried officers, how much is the average wage?

Mr. CUMMINS. I do not know. I have not that information at hand. This report does not separate them in that way, and I have not perused it.

Mr. BEVERIDGE. Does the report give the amount of salaries to the principal officers?

Mr. CUMMINS. No; it includes them all in one single item.

Mr. BEVERIDGE. That is, officers and employees?

Mr. CUMMINS. I read:

The average number of employees in the service of all companies during the fiscal year of 1908, in comparison with the fiscal year of 1907, was as follows.

Then it gives the number of employees in manufacturing properties—coal and coke properties, iron-ore properties, transportation properties, miscellaneous properties—the total numbering 165,211. Then, for the average number of employees in the service of all companies, the total annual salaries and wages, \$120,510,829. The average of them all is the sum I have given, \$730 per year.

Mr. NEWLANDS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Nevada?

Mr. CUMMINS. I do.

Mr. NEWLANDS. Mr. President, I call the attention of the Senator from Iowa to the fact that the census report gives the total number of wage-earners employed under the schedules of metals and manufactures of metals; it gives the total number of wage-earners at a little over 1,000,000; the total wages at a little over \$600,000,000; and the average annual wage at \$556 per annum.

Mr. CUMMINS. I am simply quoting from the report of the company made for the year 1908.

Mr. NEWLANDS. As I understand it, it includes salaries as well as wages.

Mr. CUMMINS. It does.

Mr. NEWLANDS. The census report covers simply the question of wages. The Senator will observe that the average wage ascertained by the census report is about \$200 less than the average wage he gives.

Mr. CUMMINS. I leave every Senator to make his own deduction with respect to that, nor do I think it is material. I do not suggest low wages with any pleasure. I would be glad to see the company expend a very much larger part of this vast net income in the payment of wages. I only brought to the attention of the Senate what we universally see, namely, that when a company has the power to take, it takes.

Mr. ALDRICH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Rhode Island?

Mr. CUMMINS. I do.

Mr. ALDRICH. Has the Senator any estimate or figures showing the average rate of wages of the people engaged in iron and steel production in Germany?

Mr. CUMMINS. No; not on my table, but I have seen those estimates or those statements so often that I have not thought it necessary to reproduce them. Every desk here is loaded with statements of that sort, and I neglected that. I am not here arguing against the protective duty upon iron and steel. I am simply arguing against what I believe to have been a mistake of the Finance Committee in attaching to iron and steel duties that are inordinately high.

Mr. ALDRICH. Does the Senator contend that the wages paid in the iron and steel industry in this country are below the average of that of all the people engaged in useful occupations in the United States?

Mr. CUMMINS. I do not know. I know that the wages paid to the miners in Lake Superior are very low. I know that the wages paid to the skilled men in the furnaces and rolling mills and the like are very high, as they ought to be, and as I hope they always will be.

Mr. KEAN. What are the wages paid?

Mr. CUMMINS. In Lake Superior, I think, about \$1.25 a day.

Mr. NEWLANDS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Nevada?

Mr. CUMMINS. I do for a question.

Mr. NEWLANDS. I understood that the Senator had yielded the floor.

Mr. CUMMINS. I thought you were asking me a question.

Mr. President, I do yield the floor with a heart full of gratitude to the Senate for giving me the attention that has been given and being sorry that I can not promise them that I will not return to this subject later. But I have about reached the limit of my own strength, and as I know I have passed beyond the limit of patience upon the part of the Senate, I yield the floor.

Mr. NEWLANDS. Mr. President, I should like to ask the Senator from Iowa whether the Members of his party in the Senate who are for a revision and a reduction of the excessive duties of the tariff have formulated their views in such a way as that they can present them for the consideration of the Democrats of this body, with a view to securing their support in carrying such reductions through the Senate?

Let me say to the Senator, the Republicans are about 60 in number and the Democrats about 30. As I understand it, there are about 20 progressives on the Republican side—

Mr. CUMMINS. The Senator has counted more than I have.

Mr. NEWLANDS (continuing). Who are for the reduction of excessive duties. While the Democrats may differ with the Senator from Iowa as to the principle which should control the formation of this bill—

Mr. CUMMINS. I rose to answer a question. What is it?

Mr. NEWLANDS. The Senator must remember that I am now speaking in my own time and not in his.

Mr. CUMMINS. Oh, I beg pardon.

Mr. NEWLANDS. I wish to ask a question, and I would be glad to have it answered, unless the Senator is unwilling—

Mr. CUMMINS. I am not at all unwilling.

Mr. NEWLANDS. In that case I would not press it.

Mr. ALDRICH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Rhode Island?

Mr. ALDRICH. I should like to ask the Senator from Nevada whether he is making an official statement or whether he is merely making a suggestion?

Mr. NEWLANDS. Mr. President, I must decline to yield, as I am pursuing an inquiry with the Senator from Iowa.

The PRESIDENT pro tempore. The Senator from Nevada declines to yield.

Mr. NEWLANDS. I wish to call the attention of the Senator from Iowa to the fact, or the supposed fact, that there are 20 progressives on the Republican side in favor of a reduction of excessive duties, and that there are 30 Democrats on this side who also favor a reduction of excessive duties, though they may differ with the Senator from Iowa as to the principle which should control the formation of a tariff bill. There is, therefore, a possibility of our uniting regardless of the question of the principle upon which the bill shall be framed, upon the practical question of a reduction of duties. I would ask the Senator—and I ask him in all sincerity, for if the Senator knew me well he would realize that I do not play politics—whether he and the men who believe with him on that side have formulated their views in such way as that they can present them to the Democrats for consideration, or whether they contemplate formulating them in such a way as to present them to the Democracy for their support? I yield to the Senator for an answer to that question, if he is willing to make it.

Mr. CUMMINS. Mr. President, there never was a question put to me that I was more willing to answer than the one that has just come from the Senator from Nevada. May I ask, though, fairly, is the Senator from Nevada authorized to speak for the 31 Democrats?

Mr. NEWLANDS. Mr. President, I will answer frankly, no. I have not consulted my associates regarding it. The minority here are powerless. They can accomplish something, not by taking the lead, but by following the progressives on the Republican side.

I take it for granted that if the progressive Republicans make a reasonable proposal that would appeal to the reason and the conscience of the Democratic side, looking toward a reduction of duties, the Democracy will respond favorably to that proposal. If they do not, they will stand on record before the country as derelict in their duty.

Mr. CUMMINS. Mr. President, I have little doubt that many of them will stand before the country as delinquents, and I have not the faith or the confidence that is expressed by the Senator from Nevada in believing that he could lead his associates toward any common object.

Mr. NEWLANDS. I beg the Senator not to call me a leader.

Mr. CUMMINS. I have stood here, or sat here, and heard the most eloquent and the highest protective speeches made come from that side of the Chamber. What have we progressives to hope for in the midst of that discord upon the part of our Democratic friends?

Answering the Senator further, I will say that I do not speak for anyone save myself. There has been no concert of action. Every man of the progressives—and I hope all Republicans are progressive—is speaking for himself day after day, and he is speaking in the hope that he will be able not only to convince his Republican brethren, but that he can convince his Democratic hearers as well.

Mr. NEWLANDS. Mr. President, this is the entire answer, as I understand it, of the Senator from Iowa. I will not criticize it.

Mr. ALDRICH. Will the Senator allow me to ask him a question?

Mr. NEWLANDS. I beg the Senator not to interrupt me. I wish to respond to the Senator from Iowa without being diverted from my purpose.

The PRESIDENT pro tempore. The Senator from Nevada declines to yield.

Mr. NEWLANDS. I will not criticize the response of the Senator from Iowa, for I shall hope that upon reflection the Senator will take better counsel with himself and with his associates. I would not, by word of criticism or taunt, create any division between the progressives on that side and the progressives on this side that would prevent legislation that will be beneficial to the entire country.

The Senator despairs of the Democratic party. He despairs of receiving aid from the Democratic party in the course of progress and reform which he has mapped out for himself and his progressive associates. Let me suggest to the Senator from Iowa that that despair is not warranted by the history of the Democratic party as to the progressive measures that have been put upon the statute books within the last three or four years of Republican administration. Let me call the Senator's attention to the fact that upon every substantial reform urged by President Roosevelt and supported by the Senator from Iowa the Democratic party has stood with the President and with the Senator from Iowa for progressive action.

The Senator referred in his speech to the rate legislation. That was the burning question of the hour a session or two ago. Where did the Democratic party stand then upon the recommendation made by a reform President to a party which he desired, but failed, to reform? His recommendation was that, upon complaint to the Interstate Commerce Commission regarding the reasonableness of a rate, a hearing should be had and power should be given to the Interstate Commerce Commission to condemn the rate and to substitute a reasonable rate. The Committee on Interstate Commerce of the Senate, composed of eight Republicans and five Democrats, deliberated upon that question for weeks, and it was impossible to secure the report of a bill from that committee.

What did the progressive Republicans upon that committee, three in number, standing with the President and standing with the Senator from Iowa, suggest then? They suggested to the minority of that committee, through myself as the intermediary, that the bill should be forced out of committee into the Senate, realizing the fact that public sentiment operating powerfully upon a reactionary Senate would force the bill through to triumphant passage; and that bill was reported from the Interstate Commerce Committee by a vote of 3 Republicans and 5 Democrats.

Did the Senator from Iowa despair of Democracy then, when the bill for which he stood, and when the bill for which the President, whom he supported, stood, was brought out of committee and before the Senate for its consideration? The Democratic party acted patriotically on that measure. They will act patriotically upon this.

I could recall numerous instances during the past four years where progressive, reformative action has been absolutely forced by the Democratic party, both in the House and in the Senate. I can call the attention of the Senator to numerous instances where the powerful support of the Democratic party to a progressive minority of the Republican party has placed upon the statute books reform measures.

It is true that in the final analysis the vote was pretty nearly unanimous, as it was upon the rate bill, there being, I believe, only one vote against it; but the men in this body who are familiar with legislation know that the rate bill and other reform measures were opposed by the majority of the Republican party, though supported by a minority of that party until the

bitter end, and that they only joined in a record vote with a view to letting it appear to the country that a measure whose passage was inevitable and which had the support of the entire country had the unanimous approval and verdict of the Republican party in the Senate. So, Mr. President, whilst the Senator from Iowa [Mr. CUMMINS] despairs of the Democratic party, permit me to remark that I do not despair of the progressive element of the Republican party, and I do not despair of the Senator from Iowa himself. I believe, before this debate is closed, they will be convinced that the great interests of the country have dominated this tariff, that the great interests of the country are powerful here in the maintenance of these excessive duties, and that, dismissing all partisanship and yielding to patriotic purposes, the progressive Republicans will join with the patriotic Democracy in placing upon the statute book needed reforms.

Mr. ALDRICH. I should like to ask the Senator from Nevada, if he would not consider it intrusive, upon what platform he proposes that this union shall be carried out?

Mr. NEWLANDS. Upon the platform, Mr. President, of faithful service to the people.

Mr. ALDRICH. The Republican party is committed, so far as it can be, to a protective tariff, the rates of which shall equalize conditions between this country and competing countries. Would the Senator from Nevada be willing to adopt that plan to secure this patriotic union that he is advocating?

Mr. NEWLANDS. Mr. President, the Senator from Rhode Island can not divert me into a consideration now of the principles that should control in the regulation of a tariff bill.

Mr. ALDRICH. That is a minor detail, I suppose.

Mr. NEWLANDS. I am disposed to dismiss those considerations just now, as the Senator some days since was disposed to evade any declaration of the principles that controlled him in the framing of the present tariff bill.

Mr. ALDRICH. I did not know that I had done so.

Mr. NEWLANDS. The only practical question before this body is, not whether the protective system shall endure or whether the system of a tariff for revenue shall be substituted for it—that is not the practical question; but the practical question is whether excessive duties shall be reduced; and both Republicans and Democrats, believing, respectively, in the principles of their parties regarding the tariff, can vote for such reductions. I call for patriotic and not for partisan action.

Mr. ALDRICH. As I understand this novel proposition, which certainly has the characteristic of boldness, if no other, it is that Senators sitting upon either side of the Chamber shall form a coalition, in which each side shall abandon all of their promises in the past and all of their political obligations for the purpose of securing a union of action upon this question.

Mr. NEWLANDS. Mr. President, the Senator may call this a "coalition." I am aware that the Senator is very skillful in forming phrases that are likely to bring any movement into disrepute. The Senator knows the value of a brand. There are many people in this country who think by the brand and not according to principle, and if you can only give a thing a detested name, they will avoid it, even though the movement so branded may be a beneficial movement. I have suggested no coalition. I have simply suggested to the progressive element of the Republican party that they should formulate their views, in order that the Democracy may consider them. I suggest simply that they may lead, and that the Democracy may follow. That is all.

Mr. ALDRICH. Do I understand the Senator to say that the Democracy have no principles involved in this matter at all?

Mr. NEWLANDS. I did not understand the question of the Senator.

Mr. ALDRICH. Well, it seemed perfectly plain.

Mr. NEWLANDS. I mean I did not hear it.

Mr. ALDRICH. Does the Senator contend that the Democratic Members of this body have no principles at all involved in this tariff discussion or no ideas except to succeed in destroying the Republican party?

Mr. NEWLANDS. Mr. President, I have not suggested for a moment that the Democracy should be regardless of principle. The Democracy stands for a tariff for revenue; though I admit there have been certain modifications and variations of that doctrine [laughter] in the platforms that have been enunciated during many years; but they have not been substantial variations. Therefore, I think I correctly state their principle when I say that they stand for a tariff for revenue. Necessarily, therefore, they must stand against prohibitory duties. The excessive duties of this bill are largely prohibitive. The duties of which the progressive men of the Republican party complain are largely prohibitive. Do they not, then, stand for the same thing? They wish to reduce excessive and prohibitive duties. We also wish it. They may not be willing

to go as far as we are willing to go. We necessarily must go as far as they are willing to go. Therefore the proposal must come from them. We can not expect them, when we propose to go ultimately further than they are willing to go, to subscribe to our declaration of what we propose to do; but when they propose to go upon the same line that we do, stopping short though of what we hope ultimately to accomplish, we can certainly proceed along the path with them until the point of divergence is reached. Does the Senator from Rhode Island call that an abandonment of principle by the progressive Republicans? Does he call it an abandonment of principle by the Democracy?

The Senator suggests that by doing that we abandon all the promises made by our respective parties. What promises were given? What promises were urged by the Republican party? They promised a revision of the tariff. It is true the expression was a dubious one; it is true that it was so framed as purposely to mislead; it is true that it was so framed as to give the "standpatters" the impression that the tariff might be revised upward, and to give the reformers and progressives the impression that it would be revised downward; but, so far as public expression upon the platform was concerned, it was the universal declaration of the Republican party, through its chosen leader, Mr. Taft, and through its speakers throughout the entire country, that the Republican party promised a reduction of excessive duties.

Did not the Democratic party promise the same thing? Did it not promise a gradual and progressive reduction in excessive duties until a fair revenue basis was attained? How can the Senator from Rhode Island, therefore, declare that either the progressive Republicans or the minority Democrats are untrue and recreant to promises which were given to the country by both parties through chosen leaders by taking the action which I have suggested?

Mr. ALDRICH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Rhode Island?

Mr. NEWLANDS. Certainly.

Mr. ALDRICH. If this union, so mildly suggested by the Senator from Nevada, should be consummated, would the result be a Democratic tariff bill or a Republican tariff bill?

Mr. NEWLANDS. The result, Mr. President, would be a reduction in excessive duties to the relief of the people from—

Mr. ALDRICH. Who would claim the credit for it?

Mr. NEWLANDS (continuing). An intolerable burden—

Mr. ALDRICH. Who would claim the credit for it?

Mr. NEWLANDS (continuing). And the minimizing of the great problems that now confront us regarding the regulation and control of trusts—

Mr. ALDRICH. Would not this—

Mr. NEWLANDS (continuing). And would tend to fairer prices throughout the country—

Mr. ALDRICH. Then, the combination certainly would be a combination in restraint of trade.

Mr. NEWLANDS (continuing). And the equalization of opportunity.

Mr. ALDRICH. It would certainly be a combination in restraint of American trade.

Mr. NEWLANDS. Now, as the Senator from Rhode Island has interrupted me whilst I was speaking without my consent, I will, having finished my sentence, yield to the Senator and be glad to answer any question he wishes to ask. I trust that the Reporter, during this duet which has taken place between the Senator from Rhode Island and myself, will be able to distinguish the prevailing note of the speaker who is now addressing the Senate. [Laughter.]

Mr. ALDRICH. I ask that the next question be stated.

Mr. BRISTOW. Mr. President—

The PRESIDENT pro tempore. The next item is on page 13, paragraph 51.

Mr. BRISTOW. I should like to inquire of the Committee on Finance why it is necessary to fix the duty on white lead higher than the duty on lead?

Mr. ALDRICH. It seems to me that question answers itself. White lead is a product of lead, and it is an expensive product of lead. Large amounts of labor are employed in the production of white lead. It is a large industry in the United States. Lead is the raw material. It seems to me it is not necessary to elaborate the reasons why a higher duty should be imposed on white lead than upon pig lead.

Mr. BRISTOW. There is a duty here of 2½ cents a pound on white lead, or 1½ cents more than the duty on lead.

Mr. ALDRICH. I beg the Senator's pardon. The duty upon pig lead in the present law and as proposed by the Committee on Finance is 2½ cents, and not 1½ cents.

Mr. SMOOT. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Utah?

Mr. BRISTOW. Certainly.

Mr. SMOOT. In further answer to the Senator from Kansas, I wish to say that whiting—

Mr. BRISTOW. Excuse me. I desire to say that it is a long way from Utah to the remote end of the "Cherokee strip," and I should like to ask the Senator from Utah to speak a little louder.

Mr. BACON. I should like to say a word in this connection. I do not live as far away as the Senator from Kansas [Mr. Bristow], but it is very embarrassing for Senators on this side to have to repeatedly ask Senators on the other side to speak a little more loudly, and yet we can not hear one-half what the Senator from Rhode Island says. I presume it is due to the fact that there are so many differences among themselves that most of the Senator's remarks are addressed to Senators upon his side of the Chamber, and he does not bear in mind the fact that we should like to hear what he says.

Mr. ALDRICH. I shall try hereafter to obviate that difficulty.

Mr. BRISTOW. I should be pleased to hear from the Senator from Utah. I could not hear a word he said.

Mr. SMOOT. I thought the Senator from Kansas was speaking of whiting, under paragraph 52, but I am told that he had reference to white lead, instead of whiting. I believe that is the case.

Mr. BRISTOW. Yes; this duty on white lead is $2\frac{1}{2}$ cents a pound.

Mr. OVERMAN. That is paragraph 51.

Mr. BRISTOW. Yes; paragraph 51. We heard a great deal yesterday about the condition of the lead industry in the United States. For one, I can not see why there should be a higher duty on white lead than on any other kind of lead. The ingredient that goes into it has a lower duty, if I understand what the ingredient is.

Mr. KEAN. May I interrupt the Senator from Kansas for a moment?

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from New Jersey?

Mr. BRISTOW. I do.

Mr. KEAN. Has the Senator from Kansas ever studied the process by which white lead is made?

Mr. BRISTOW. I have not.

Mr. KEAN. I have sent for the encyclopedia, and when I receive it I will hand it to the Senator, so that he may inform himself.

Mr. BRISTOW. I do not care for an encyclopedia. I think the Committee on Finance should be able to give those of us who have not had the opportunity to obtain the information necessary for voting intelligently upon this bill the information for which we ask, if we have any right to ask questions. It is my desire to vote intelligently, if I can, and so I should like to know why it is necessary to have a higher duty on white lead than on any other kind of lead. I should like to know whether the ingredient that goes into white lead is the reason for this advanced duty, or whether it is labor in the preparation of white lead; and, if so, what is the difference in the scale of wages here and the scale of wages abroad?

Mr. HEYBURN. Mr. President, I am in some doubt as to whether or not the Senator from Kansas has taken the floor for the purpose of discussing this item. I propose in my own time to give such information as I have upon this subject, but it is not a subject that can be discussed by the answering of a question.

Mr. ALDRICH. I think I can answer the question intelligently; at least I hope I can. I have already said that white lead is a product of pig lead and that the manufacture of it involves a great deal of labor and a very expensive process.

Mr. HEYBURN. And a great deal of time also.

Mr. ALDRICH. And a great deal of time. So the duty proposed by the committee upon pig lead is $2\frac{1}{2}$ cents per pound.

Mr. BACON. In what paragraph is pig lead found?

Mr. BEVERIDGE. Paragraph 52.

Mr. BACON. No; that is white lead.

Mr. ALDRICH. It is in paragraph 179 of the present law and paragraph 180 of the pending bill.

Mr. BEVERIDGE. They are separate from paragraph 51?

Mr. ALDRICH. Yes. The Senator from Kansas [Mr. Bristow] has asked me why this lead should pay more than pig lead. The average price of pig lead is about $2\frac{1}{2}$ cents a pound and the average price of white lead is about $6\frac{1}{2}$ cents a pound, showing that it costs 4 cents a pound more to produce white lead than it does pig lead.

Mr. BRISTOW. I should like to inquire if the Senator from Idaho desires to discuss this question in full now?

Mr. HEYBURN. Mr. President, when I may have the floor it is my intention to submit some remarks upon this question.

Mr. BRISTOW. I shall be very glad to yield the floor to the Senator from Idaho and hear him before I proceed with any further remarks, because he may relieve my mind from some difficulties that are now disturbing it; and probably after he is through I will make a few observations, unless I am entirely satisfied with his explanation.

Mr. HEYBURN. Mr. President, while this is not the main question, yet it seems to me that we are in duty bound in the consideration of this item to go to some extent into the lead question. White lead is the result of corroding pig lead. The transformation of pig lead into white lead involves the construction of separate factories, expensive appliances, and a considerable interval of time. Were we to open the door to the admission of white lead, we would find a scant market for our own pig lead. For instance, Mexico, on our border, could swamp the American market by corroding lead on the Mexican side of the line and sending it over, thus destroying the market for our lead in our own country. It is not a question as between our country and another; it is a question where they can invade our market to the utter extermination of the pig-lead industry in this country.

Mr. BEVERIDGE. Mr. President—

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Idaho yield to the Senator from Indiana?

Mr. HEYBURN. Certainly.

Mr. BEVERIDGE. Will the Senator explain, for the information of many Senators, why a difference of four-eighths of 1 cent a pound on white lead would destroy the lead industry of this country? The reason of the question is that the House fixed the rate at $2\frac{1}{2}$ cents and the Senate at $2\frac{3}{4}$ cents per pound.

Mr. HEYBURN. That goes directly to the question of our production of lead, what we shall receive for it, and whether we shall maintain the industry.

Mr. BEVERIDGE. The question is—

Mr. HEYBURN. I will answer it.

Mr. BEVERIDGE. Very well. Did the House intend to destroy the lead industry by this duty?

Mr. HEYBURN. I shall neither attempt to be the judge nor the guarantor of the conscience of anybody, here or elsewhere. We do not need to consider that. We may give due respect to the judgment of the House, but we are not bound by it in any way. We stand here with individual and collective responsibility that rests upon nothing but our own intelligence and our own conscience. So that, while, as I say, I will give a due need of respect to their action, I shall not be governed by what some one else has done elsewhere.

As I was saying, it goes to the question of maintaining our lead industry in this country. The United States produces one-third of the lead of the world. It maintains the price of lead in the world. Settlements in this country are made daily upon what are known as Western Union quotations in the city of New York, which represent the market price upon which you can obtain a settlement for your lead at a moment's notice at any smelter or at any refinery in the United States. They settle upon the quotation of that day.

Now, as to the process of corroding lead. First, you must obtain the lead in the market—

Mr. CLAPP. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Minnesota?

Mr. HEYBURN. Certainly.

Mr. CLAPP. I do not want to undertake to say what the order of the Senator's argument shall be, but this consideration appeals to me: The Senate has raised the duty on lead itself above the duty provided in the House bill.

Mr. HEYBURN. "Proposed" in the House bill.

Mr. CLAPP. "Proposed." Now the argument is being made, not by the Senator, but it has been urged by others, that we should now fix the duty upon white lead in view of the proposed action of the Senate on lead itself.

Mr. HEYBURN. You can not separate them.

Mr. CLAPP. If that is true, it does seem to me that while the lead item comes later it would be much more instructive to take up, first, the discussion as to the necessity for the proposed Senate increase over the House bill on lead itself. I merely make the suggestion.

Mr. HEYBURN. Well, Mr. President, I have no objection to taking up the lead schedule at this time out of its order in connection with the consideration of this item. I shall be very glad to do it, and thus avoid what may necessarily be a repetition of the consideration.

Mr. CLAPP. It seems to me that that would be a very proper thing to do.

Mr. HEYBURN. If the chairman of the committee will make the appropriate motion, I should be very glad then to proceed.

Mr. ALDRICH. It does not require a motion. I am myself quite willing to have the lead schedule taken up first, and I ask unanimous consent to take up paragraph 180 out of order.

Mr. SUTHERLAND. I suggest to the chairman of the committee that it would be better to take up, first, the duty on lead ore. That is first in order.

Mr. ALDRICH. Paragraph 179 is the one relating to lead ore.

Mr. HEYBURN. I should like to take up paragraphs 179 and 180, because the two are inseparable.

Mr. ALDRICH. Very well. I ask that that be done.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Rhode Island to go forward and take up paragraphs 179 and 180? Without objection, it is so ordered. The Secretary will state the paragraphs.

The SECRETARY. On page 59, paragraph 179, the Committee on Finance propose to strike out all after the numerals down to and including the word "pound" in line 19 and insert "Lead-bearing ore of all kinds, 1½ cents per pound on the lead contained therein," so as to read:

179. Lead-bearing ore of all kinds, 1½ cents per pound on the lead contained therein: *Provided*, That on all importations of lead-bearing ores the duties shall be estimated at the port of entry, and a bond given in double the amount of such estimated duties for the transportation of the ores by common carriers bonded for the transportation of appraised or unappraised merchandise to properly equipped sampling or smelting establishments, whether designated as bonded warehouses or otherwise. On the arrival of the ores at such establishments they shall be sampled according to commercial methods under the supervision of government officers, who shall be stationed at such establishments, and who shall submit the samples thus obtained to a government assayer, designated by the Secretary of the Treasury, who shall make a proper assay of the sample and report the result to the proper customs officers, and the import entries shall be liquidated thereon, except in case of ores that shall be removed to a bonded warehouse to be refined for exportation as provided by law. And the Secretary of the Treasury is authorized to make all necessary regulations to enforce the provisions of this paragraph.

The PRESIDING OFFICER. Does the Senator desire to have the next paragraph read also?

Mr. ALDRICH. Yes; we might also have paragraph 180 read.

The PRESIDING OFFICER. The paragraph will be read, in the absence of objection.

The SECRETARY. In paragraph 180, page 60, the Senate committee propose to strike out all of the paragraph as printed in the House bill and to insert a new paragraph 180, as follows:

180. Lead dross, lead bullion or base bullion, lead in pigs and bars, lead in any form not specially provided for in this section, old refuse lead run into blocks and bars, and old scrap lead fit only to be remanufactured; all the foregoing, 2½ cents per pound; lead in sheets, pipe, shot, glaziers' lead and lead wire, 2½ cents per pound.

Mr. ALDRICH. The question is on paragraph 179.

The PRESIDING OFFICER. The question is on agreeing to the amendment of paragraph 179.

Mr. CULBERSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Texas?

Mr. HEYBURN. Certainly.

Mr. CULBERSON. On this side of the Chamber we understood that paragraphs 179 and 180, in connection with paragraph 51, would be taken up in order that the Senator from Idaho might discuss the three. I may be mistaken about it.

Mr. ALDRICH. No; paragraphs 179 and 180 have been taken up out of regular order at the suggestion of the Senator from Minnesota [Mr. CLAPP] that we may act upon them, so that we may be able to determine what ought to be done with paragraph 51.

Mr. CULBERSON. I think they were taken up out of order by unanimous consent of the Senate.

Mr. ALDRICH. They were; yes.

The PRESIDING OFFICER. They were taken up out of order by unanimous consent of the Senate and are to be first considered.

Mr. CULBERSON. Certainly; and I understood that the Senator from Idaho would explain the necessity for the increase both in paragraph 180 and in paragraph 51.

Mr. HEYBURN. I understand that they are taken up together for the purpose of consideration, that the vote may be had on each one separately.

Mr. STONE. I understand that no change has been made in paragraph 179. Is that correct?

Mr. BEVERIDGE. That is right.

Mr. CULBERSON. But there has been a change made in paragraph 180 and in paragraph 51.

Mr. BEVERIDGE. Paragraph 180 is changed, but paragraph 179 is not changed.

Mr. CULBERSON. Paragraph 180 is changed.

Mr. HEYBURN. I think I can make it plain. A change was made in the proposed duty on white lead and the duty on bullion, but it was not made in the duty on the lead content of the ores. For the convenience of consideration, however, I think it will be agreed that the three sections had best be considered together, so that we may discuss the entire lead question. Behind it all is the question of the duty on lead bullion, not the lead in ore before extraction, but the result of the extraction. That is the basic principle upon which the price of lead is determined and the products of lead.

White lead is a product of what we term "bullion," the metallic lead that has been extracted from the ores. A very large percentage of lead bullion is converted into white lead, which enters into paint and is used largely for painting. The process of conversion is by corrosion of the lead bullion, which is a separate and distinct process from any other connected with the extraction of the metal. An additional and an entirely new expense must be incurred in order to transform bullion into white lead when it is ready to be mixed for use as a paint or for other purposes.

Mr. BRISTOW. Mr. President—

Mr. HEYBURN. In a moment. Now, each of these processes involves an entirely new and additional expense, and that determines the question of the relative value of the several lead commodities.

I now yield to the Senator from Kansas.

Mr. BRISTOW. As I understand this paragraph, the Senate committee has increased the duty on lead bullion from one and a half, what it was in the Dingley bill, to 2½.

Mr. HEYBURN and other Senators. No.

Mr. BRISTOW. Is that not true?

Mr. HEYBURN. If the Senator will turn to page 21 of the large exhibit, paragraphs 178, 179, and 180, he will find the classification of the items and a statement of the existing duties, the duty proposed in the House bill, and of the action or suggestion of the Senate committee. Lead bullion is lead that has been extracted from the ore.

Mr. STONE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Missouri?

Mr. HEYBURN. I do.

Mr. STONE. I should like to ask the Senator if he understands the matter as I do? I understood the Senator from Rhode Island to say that there was no change in paragraph 179; that there were a change and an increase in paragraph 180. As I read both, it seems to me that paragraph 179, pig lead—

Mr. HEYBURN. No.

Mr. STONE. Lead bullion—

Mr. HEYBURN. No; that is lead-bearing ores.

Mr. STONE. One and one-half cents a pound—

Mr. HEYBURN. Lead-bearing ore is in paragraph 179.

Mr. STONE (reading):

179. Lead dross, including all dross containing lead, lead bullion or base bullion, lead in pigs or bars.

Mr. ALDRICH. If the Senator will permit me, the House bill put a cent and a half a pound on lead ore or the lead contents of ore and also a cent and a half on pig lead, and the Senate has separated the two.

Mr. STONE. And put a higher duty on pig lead?

Mr. ALDRICH. Certainly.

Mr. STONE. Then I understand it.

Mr. HEYBURN. The wisdom and necessity of that must be obvious. The lead contents in the ore represent a very much less expenditure of time and labor than the bullion, because the lead ore must be treated for the extraction of the bullion from it. So that product is entitled to an entirely different classification, and as was suggested yesterday, I believe it was, it is evident, or it seemed to be evident, that the House, for some reason with which it is not necessary for us to deal, neglected to make a corresponding raise in the duty on the bullion, overlooking it.

The general schedules are made upon the basis of a difference between articles upon which there is a different expenditure made necessary.

Mr. BACON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. HEYBURN. Certainly.

Mr. BACON. I do not know that I understand the matter entirely, and therefore I call the attention of the Senator to the fact that, as I read it, the House did not make a difference. The House put upon lead dross, which, I presume, would include lead-bearing ore—

Mr. HEYBURN. No; it would not.

Mr. BACON. Then, there is no provision for lead-bearing ore.

Mr. HEYBURN. Lead-bearing ore is provided for.

Mr. BACON. In an amendment?

Mr. HEYBURN. In paragraph 179.

Mr. BACON. That is the paragraph I have before me. In the text as it came from the House there are the words "lead dross, including all dross containing lead, lead bullion, or base bullion," and so forth, and it put the rate at one and a half.

Mr. LODGE. The Senator has not read the whole of what was stricken out.

Mr. BACON. Of course not.

Mr. LODGE. Line 17 says, "and the lead contents contained in lead-bearing ore."

Mr. BACON. Very well.

Mr. LODGE. We took lead-bearing ore and put 1½ cents on the contents of lead-bearing ore, instead of at what the House put it.

Mr. BACON. The Senator misunderstands me entirely. I was not directing my remarks to that point. I was simply asking the Senator from Idaho whether or not I was correct in the reading which I made of the two paragraphs, 179 and 180. As the bill came from the House in the one case the duty was fixed at 1½ cents and in the other, which is paragraph 180, the duty is fixed at 1¼ cents. I was inquiring simply whether the Senator was correct in stating that there had been no differentiation made in the House as to this class of articles.

Mr. HEYBURN. That is another portion of the item. That is a different product.

Mr. BACON. I will make this inquiry of the Senator, then. The Senator will find in lines 19, 20, and 21 the amendment proposed by the Senate committee, and the Senate committee in their proposed amendment use the words "lead-bearing ore of all kinds." Now, what I desire to know of the Senator from Idaho is whether or not he understands that phrase to mean the same as the various descriptions of lead ore or lead dross which are contained in the House provision which has been stricken out, immediately preceding it; whether it is the same or whether it is different.

Mr. SMOOT. If the Senator from Idaho has not the bill there—

Mr. HEYBURN. I have the bill.

Mr. SMOOT (continuing). I can call attention to it.

Mr. HEYBURN. It is paragraph 179. The Senate committee struck out down to line 19—

Mr. BACON. Yes.

Mr. HEYBURN (continuing). And eliminated certain enumerations of lead products, and then substituted for it "lead-bearing ore of all kinds." That is lines 19 and 20—"lead-bearing ore of all kinds 1½ cents per pound on the lead contained therein." The items to which the Senator is directing my attention are in a different classification entirely.

Mr. BACON. No. I am directing the Senator's attention to exactly what he has read. What I desire to know—and possibly the Senator from Utah can tell me; I am asking for information—is whether the language used by the Senate committee's amendment embraces the same thing as the different language which is used in paragraph 179 by the House, and which is stricken out?

Mr. HEYBURN. I can answer that. It does not.

Mr. BACON. That is what I want to know.

Mr. HEYBURN. It embraces a part of it. They divide the enumeration. The rest of it will be found in paragraph 180—

Mr. BACON. I understand that.

Mr. HEYBURN (continuing). Which is rewritten on the page following. That, in the judgment of the committee, was a necessary or proper distribution of the item. That was all.

Now, the items which have been set forth in paragraph 180, that bear the duty suggested by the Senator, 1¼, are entirely different. Under existing law and under the Senate amendment they carry a duty of 2½. The House reduced them to 1¼.

I think we will have no difficulty in understanding as to what paragraphs are affected by what I may say. I am speaking first of the primary article upon which all that we do must be based, and that is lead bullion, because it is the lead bullion that is paid for. The lead in the ore that is not extracted is without value. It is only valuable when converted into lead bullion. Then it comes under a different rate. The reason it is necessary to fix a rate upon the lead contents of ore is that very large quantities of ore are shipped into the United States from Mexico, British Columbia, and elsewhere, with the lead contents in the ore to be smelted or treated in this country. That is one class of lead importations. It is imported in its original condition as it came from the mine, or having been

concentrated for the purpose of eliminating a certain amount of waste that is naturally contained in it.

Mr. President, having reduced the ore to bullion, we have lead pure and simple—lead bullion.

Mr. BEVERIDGE. Pig lead?

Mr. HEYBURN. Whether it is pig or sheets, or what it is, the foreign substances have been eliminated, and it is lead bullion. Upon that article, under existing law, the duty is 2½ cents a pound. The House proposes to reduce it to 1½ cents a pound, thus placing it on an exact equality with lead contents of ore. There is a large item of expense lying between the lead in ore and the lead in bullion.

Mr. HALE. It advances the value of it.

Mr. HEYBURN. It advances the value to the extent that you are compelled to expend money in bringing about the change in its condition.

Mr. BACON. If the Senator will permit me to ask him a question right here—

Mr. HEYBURN. Certainly.

Mr. BACON. I wish to ask if it is not a fact that the duty upon lead ore is higher than the duty on pig lead?

Mr. HEYBURN. No. One is one and one-half and the other—it is stated in the item—

Mr. BACON. I understand that. I did not ask that question idly or without reason. I find in the document which has been furnished to us for our guidance and information that lead ore when reduced to its equivalent is stated to be 78.80 per cent ad valorem, whereas upon pig it is 49.45. So that while the rate per pound appears to be less, the ad valorem is, in fact, 50 or 60 per cent higher.

Mr. HEYBURN. That is according to the House bill.

Mr. BACON. Even according to the Senate bill.

Mr. HEYBURN. I think not according to the Senate bill.

Mr. BACON. I am reading from the document furnished to us, and even according to the Senate bill, with the duty raised upon pig lead to the rate which is proposed by the Senate amendment, the ad valorem duty on pig lead will still be less than the ad valorem duty on lead ore, according to the document before us.

Mr. HEYBURN. I think if the Senator will resort to a mathematical calculation, taking into consideration the ad valorem duty and the specific duty, he will find he is mistaken. I will leave that, a mere matter of detail, to be figured out.

Mr. BACON. I will assure the Senator—

Mr. HEYBURN. I have it before me.

Mr. BACON. This is stated on page 21, and the head of the column is "Equivalent ad valorem," and the duty on lead ore is stated as the equivalent ad valorem percentage of 78.80.

Mr. HEYBURN. The bullion is worth a great deal more than the contents of the ore. The value being greater, the Senator will readily see that it would result in a higher ad valorem duty. But the relation is not disturbed. It is because the article has become much more valuable that it results in such an ad valorem duty. It is a mere question of proportion.

Mr. BACON. I understand that; but I was addressing myself to the explanation the Senator was giving, why it was that there was a higher rate of duty upon pig lead than there was upon the lead ore; and I am calling his attention to the fact that while it is true that the lead ore has to undergo a certain process in order that the pig lead may be derived therefrom, nevertheless, estimating it according to its valuation, according to lead contents, according to the language of the table before us, the lead ore had an ad valorem duty put upon it of 50 to 60 per cent higher than the duty upon pig lead. Of course after the lead has been extracted from the lead ore it is pig lead, I presume, and the duty is assessed not upon the ore, but upon the lead contents, and is 50 or 60 per cent higher. I can not make the calculation; it is a mere guess; but it is the difference between 78.80 and 49.45.

Mr. SMOOT. The difference is 28 per cent.

Mr. HEYBURN. I do not think it important at this time, if at all, to enter into a mathematical calculation as to whether the ad valorem duty here is consistent with the specific duty, but I was requested by the Senator from Kansas to shed some light, if I may, upon why white lead should bear the duty proposed in this bill; and in order to do that I thought it necessary and proper to enter to some extent—not very great—into the relation which the lead bullion bears to the product with reference to which the Senator from Kansas has spoken, and to give a reason why the product of the bullion should bear the rate proposed by the Senate committee; and I will state it briefly again. It is because the white lead is a higher grade and a more expensive product than the lead bullion from which it is made. It must be evident from that that it is proper the duty

should be commensurate with the increased value of the product when that increase represents investment of labor or capital. It is a rule that runs through all these schedules.

White lead is used for painting purposes largely; and it was said here yesterday, I believe, that it was the demand of the farmers of the country that white lead should bear a reduced duty or no duty at all. I propose to show briefly that white lead is the bulwark that stands between our bullion produced in this country and the bullion of other countries that may be sent into this country. Why would any man corrode American bullion in making white lead, if by going across the line into Mexico he could take up the 177,000,000 pounds of lead that they have on hand and corrode it over there, if he could get it in here without a duty, and why would any lead in this country be used until the cheaper product of Mexico had been absolutely absorbed?

Mr. BRISTOW. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Kansas?

Mr. HEYBURN. Certainly.

Mr. BRISTOW. I should like to inquire if there are any other ingredients than lead bullion in white lead, and what the percentage is?

Mr. HEYBURN. Nothing that forms any component part of the lead. It is a chemical change in lead. It is simply corroded. The difference of value represents the expense of corroding it.

Mr. PENROSE. It takes three or four months to do that.

Mr. HEYBURN. Yes; more than that. It takes several months to produce white lead. The property is idle during that time; that is to say, it is not on the market. It is suspended capital, and the expenditure for the machinery, the plant necessary to perform this chemical process, and the labor involved in it make it a higher priced article; that is all.

I do not think the Senator from Kansas will find that the difference proposed by the Senate committee is any more than is fairly represented by the increased value of the product.

Mr. SMITH of Michigan. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Michigan?

Mr. HEYBURN. Certainly.

Mr. SMITH of Michigan. If I understood the Senator correctly yesterday, he said that upward of 50,000 men were employed in the lead mines of this country, and that the wages aggregated between fifty and sixty million dollars a year. Is that correct?

Mr. HEYBURN. I can give the Senator the figures very accurately. I have them from the mine inspector of every lead-producing State.

Mr. SMITH of Michigan. I should like to ask the Senator whether he knows the relative wage paid in the lead mines of Spain and Germany?

Mr. HEYBURN. Yes; I can tell the Senator something of it. Without going into fractions, the element of wages in Spain may be fairly put at just one-half the element of wages in this country.

Mr. SMOOT. That is altogether too high.

Mr. HEYBURN. I am giving the foreigner the benefit of the doubt. I have the exact figures.

Mr. SMOOT. I have the figures here exactly, if the Senator wants them.

Mr. HEYBURN. And in Mexico one-third.

Mr. SMITH of Michigan. And in Germany?

Mr. HEYBURN. And in Germany about 65 per cent.

Mr. SMITH of Michigan. As I understand it—

Mr. SMOOT. That is too much.

Mr. HEYBURN. It is too much; but I want to state the figures, so that I will not be criticised for having strained them.

Mr. SMITH of Michigan. Just one more question. What is our relative position as a lead producer?

Mr. HEYBURN. We produce one-third of the lead of the world.

Mr. WARNER. We are the first lead-producing nation.

Mr. SMITH of Michigan. And then Spain and Germany?

Mr. HEYBURN. No; Spain, Mexico, and Australia.

Mr. SMITH of Michigan. I should like to ask the Senator from Idaho if it is not a fact that the Idaho lead-mining companies are independent companies, operating upon their own footing, and in antagonism to whatever organizations there may be which control that business?

Mr. HEYBURN. I saw an article in a New York paper of this morning—I have it on my desk—asserting that there was a combination of lead interests being formed or that it had been formed in London. The article was purely sensational. There is no foundation for it, and if such a combination were attempted it would fail, because the mines that are producing the

lead to-day are, comparatively speaking, new mines. When a few years ago the lead dealers thought they had the whole thing in their grasp, they woke up one morning and found a few new mines that overshadowed all that went before.

Mr. SMITH of Michigan. It is a fact that the lead mines of Idaho are independent?

Mr. HEYBURN. They are independent.

Mr. SMITH of Michigan. And does the Senator from Idaho believe that the rates of duty which have been in force under the Dingley law are only sufficient to protect them in their operation?

Mr. HEYBURN. Let me tell the Senator something about that from practical experience.

Mines are of varying grades. The ore in some of our mines will concentrate 10 tons into 1, giving a product of 65 per cent lead and 30 ounces of silver. Other mines, and very large mines, will concentrate four or five into one, giving the same product.

A very small proportion of these ores are rich enough to ship in the condition in which they are taken from the ground. We have to pay the expense of mining 10 tons of ore in many cases in order to get what will result in 1 ton of concentrates, and that ton of concentrates will represent about 65 per cent lead and about 30 ounces of silver.

So, in counting the expenses of mining a ton of ore, you must figure first that you have had to mine 10 tons, that you have had to transport it to the concentrator, that you have had to concentrate 10 tons of ore in order to get 1 ton of lead. The additional expense is evident. I need not go into any figures to show that. A man may mine 4 tons of ore a day, at a wage of \$4, but he would have only a part of a ton of real lead ore when he was through, and that seems to be not generally understood. That is true in Colorado; it is true in Idaho.

Mr. SMITH of Michigan. I should like to ask the Senator what the average wage is in a lead mine?

Mr. HEYBURN. They place it at \$4. We pay four or a very little less than four, but \$4 for eight hours will apply to the wages in this country in lead mines.

Mr. WARNER. I should like to ask the Senator if it is not a fact that the labor of lead miners is not the highest paid labor in the country?

Mr. HEYBURN. Yes; I think they are. We employ in the lead industry in this country more than 50,000 men directly in mining—that is, the men who actually dig out the ore. We employ in concentrating these ores or smelting about 35,000 in addition to that. We employ in and about mining another 15,000 men incidental to the mine.

Mr. SUTHERLAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Utah?

Mr. HEYBURN. I do.

Mr. SUTHERLAND. I wish to ask the Senator from Idaho whether, notwithstanding the fact that the duty has been retained for the past twelve years at 1½ cents a pound on lead contained in the ores, not to exceed one-third of the lead-producing mines in his own State and—if he is familiar with the fact—not to exceed one-third of the lead-producing mines in the State which I in part represent pay dividends to their owners?

Mr. HEYBURN. Our mines in Idaho, my attention having been called especially to them, make a profit as a rule, but all things that are called mines are not mines. There are engaged in prospecting for mines in this country at least 15,000 men, and as a result of the labor of those 15,000 men we have this constant agitation. The existing mines in the country are to be counted also.

Mr. NEWLANDS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Nevada?

Mr. HEYBURN. Certainly.

Mr. NEWLANDS. I observe that the duty on lead in the ore is 1½ cents per pound, and that the duty on the base bullion is 2½ cents per pound, a difference of five-eighths of a cent or a little over \$10 per ton. As I understand the Senator to state, the process of changing it from lead in the ore to base bullion is accompanied by labor of course, and that means, I presume, the work of the smelter. The only question in my mind is as to whether this five-eighths of a cent per pound additional duty upon the base bullion, as above the lead in ore, is not an excessive allowance. Eleven dollars a ton seems to me to be a very large allowance for turning lead in the ore into base bullion through the process of smelting.

Mr. BEVERIDGE. In other words, does not that difference represent a protection to the smelter rather than a protection to the miner?

Mr. HEYBURN. No; it does not. The smelter is in no way employed in that.

Mr. SMOOT. Let me suggest to the Senator that in the recovery of the lead we get only 88 per cent. The smelters lose 12 per cent in recovery of the lead, and that is to be taken out of the differential between $1\frac{1}{2}$ cents on lead ore and $2\frac{1}{2}$ cents on pig lead.

Mr. NEWLANDS. Twelve per cent taken from \$11, the extra allowance per ton, would amount to less than \$2. I question whether \$9 is not too large an allowance for the process of smelting necessary to change lead in the ore into base bullion.

Mr. HEYBURN. Mr. President, in the first place, I think the Senator has failed to grasp the importance of the statement I made, that in order to get 1 ton of lead you must mine from 6 to 10 tons of ore. Then you only get a concentrate that is from 64 to 65 per cent lead, and you have to pay the freight and pay for handling on the waste represented by the difference between 64 and 65 per cent lead and 100 per cent. Then in smelting, the Senator from Utah puts it too low. The average loss in the handling of lead ore below the assay that is made for the purpose of determining the lead in the ore will average 20 per cent. That is an absolute loss. It goes into the rivers and ravines or wherever the slime is sent. It is never recovered. So that must be charged up against the production of this ore.

But, Mr. President, behind it all there is a greater question than that of the interest of the mine owner. Unless the mines can be operated at a profit, it is safe to say that they will not be operated at all. You can take a camp such as that of the Coeur d'Alene country, with 20 or 30 big mines in it, and you will find that, with the exception of three or four of them, they are mining very low-grade ore, and that the margin of profit is very small. When the duty upon ore was cut in two by the Wilson-Gorman bill, the big mines of our country shut down, because there was no longer any profit. That loss was not alone upon the mine owners. They could let the mines lie there, notwithstanding the large investment they had in the mines originally. But it turned loose a horde of miners. A high class of labor was turned loose upon that country. There were three or four thousand men out of employment, and they invaded other fields of industry. It resulted in congested employment all over that country. Those people were idle. Not only was the owner of the mine suspended in his profits, but the men who worked in the mines and the men who worked for the men who worked in the mines—the men who farmed and raised the produce and kept the mercantile establishments and kept the clothing stores and built homes—were also idle, because those men were out of employment. That condition lasted just so long as that tariff law was in force. When the present tariff law was enacted, those mines could go to work, because the profit, and the only profit that they had, lay between that bill and the one pending. If you were to cut the rate in two, these low-grade mines would be compelled to close, because they could not pay their bills. The product of the ore would not be sufficient to keep them going.

If those mines must close down because of the reduction in the value of the product of their ore, how is the country going to be benefited? How is the farmer, who wants his white lead, going to be benefited? He would be buying foreign lead, and the price would be put up to the very limit.

Mr. BEVERIDGE. What was the rate under the Wilson-Gorman law?

Mr. HEYBURN. Just one-half what it is under existing law.

Mr. BEVERIDGE. Three-fourths of a cent. Then the House rate in the present bill is about twice as much as in the Wilson-Gorman bill.

Mr. BACON. I think the inquiry made by the Senator from Indiana—

Mr. BEVERIDGE. The Senator was describing the condition of their mines under the Wilson law. I asked what the duty was under the Wilson law.

Mr. BACON. I think the Senator was mistaken in his reply, and that is the reason why I made the inquiry. If I recollect aright, it was a cent and a half a pound.

Mr. BEVERIDGE. No; the Senator from Idaho said the Wilson law rate, which closed up the mines, was three-fourths of a cent.

Mr. BACON. That is exactly the point to which I am directing the attention of the Senator.

Mr. ALDRICH. The rate under the Wilson law was three-fourths of a cent a pound.

Mr. BACON. I was mistaken, I see. The rate on pig lead was $1\frac{1}{2}$ cents a pound.

Mr. BEVERIDGE. Under the House bill the rate is $1\frac{1}{2}$ cents. So I ask the Senator whether or not his remarks would apply to the House bill, because the rate is very much higher than the Wilson law, which closed his mines.

Mr. ALDRICH. The House bill rates are just $1\frac{1}{2}$ cents a pound.

Mr. STONE. I will say to the Senator from Indiana, if I may be permitted, that the rate under the Dingley law was $1\frac{1}{2}$ cents a pound, and under the McKinley law $1\frac{1}{2}$ cents a pound.

Mr. BEVERIDGE. Not on base bullion, I will say to the Senator from Rhode Island. There is a good deal of an increase on base bullion.

Mr. ALDRICH. I am not talking about base bullion. I was simply stating that the rate on lead ore under the Wilson law was three-fourths of a cent a pound. Under the House bill it is $1\frac{1}{2}$ cents, and under the Senate committee's proposition it is $1\frac{1}{2}$ cents.

Mr. BEVERIDGE. But base bullion under the House bill is $1\frac{1}{2}$ cents a pound.

The PRESIDENT pro tempore. Does the Senator from Idaho have the floor?

Mr. HEYBURN. I have the floor.

Mr. BACON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. HEYBURN. I yield to the Senator.

Mr. BACON. I have read the paragraph and see the Senator is correct. I was mistaken.

Mr. NEWLANDS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Nevada?

Mr. HEYBURN. I do.

Mr. NEWLANDS. The Senator from Idaho has stated that as a result of the passage of the Wilson law the lead mines were closed. I will ask him whether that closing of the mines was not more due to the fall in the price of silver, as the result of legislation about that time, silver and lead being often produced in the same ore?

Mr. HEYBURN. I will answer the question in this way: The question of the production of silver, of course, is closely wedded to the question of the production of lead, because they are found in the same ores. But I am not going into a discussion of the effect of this measure upon silver nor into a consideration of the silver question.

Mr. NEWLANDS. I am asking the Senator—

Mr. HEYBURN. I should like to say to the Senator that I started to reply to the Senator from Kansas and I have been interrupted so that I have not finished my reply.

Mr. NEWLANDS. I beg the Senator's pardon.

Mr. HEYBURN. I would say to the Senator from Kansas, who would seem to base his objection to the item, at least to some extent, upon an inquiry as to whether it was fairly harmonious with the duties on lead, I know that Senator would not want to strike down a great industry like the lead-producing industry merely because it might have some slight effect upon the price of the paint that is used on the buildings in his State. The lead industry is too great an industry.

It represents hundreds of millions of dollars in this country. I am quite sure that the effect on the price of the paint that may be used, or may not be used, according to the prosperity that surrounds the country, would not be a sufficient inducement to actuate the Senator from Kansas in opposing so great a protective measure as this.

Mr. BRISTOW. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Kansas?

Mr. HEYBURN. Certainly.

Mr. BRISTOW. I certainly am not in favor of a protection that will strike down any industry.

Mr. HEYBURN. I felt quite sure of that.

Mr. BRISTOW. I should like to ask the Senator from Idaho a question. He has just stated that the wages paid by the lead miners and smelters in this country aggregate \$50,000,000 a year. Am I right in that?

Mr. HEYBURN. More than that.

Mr. BRISTOW. More than \$50,000,000 a year. In the Statistical Abstract for 1907 it appears that the total value of the lead production of the United States in 1906 was \$39,000,000. How can you expend \$50,000,000 in getting out \$39,000,000 worth of lead?

Mr. HEYBURN. Mr. President, in connection with this lead product we produce practically all of the silver that is produced in the country in the mining of lead. If we were to stop mining lead we would not produce any silver in this country. It applies to the production of everything that comes in contact with the lead. There is the lead in copper. I have one mine in my mind that produces ores that carry 8 per cent lead, 9 per cent copper, and about \$3.50 in gold. If you shut

that mine down, of course you affect the lead product and the gold product and the copper product.

I have in mind another mine that produces about 12 or 13 per cent lead and a pretty high value in silver; I think about 30 ounces of silver to the ton. If you strike down the lead industry, you strike down the production of silver also or any other ore commodity. All the value that results from this mining is not in the lead contained. In some cases the lead is a by-product; in other cases the silver is a by-product; and in other cases the gold or copper would be a by-product, just as they predominate. The value of all these ores or all contents of them must be taken into consideration.

I am speaking from actual facts when I speak of the number of men employed and the wages. We employ in our camp alone, where I live, something over 3,000 men, and we produce more than \$20,000,000 a year in lead and silver in that camp. We have an income tax, too, that we pay on the net proceeds of those mines. We have been doing it for years and years, and will continue to do it. Idaho has been the treasure chest of this country. I do not suppose the Senator ever had his attention called to the fact that during the war of the rebellion Idaho produced some \$200,000,000 in gold—gold ready for use without coining—and sent it out into the arteries of trade and commerce to help to save this Nation and to bring prosperity to the generations that followed. That product was from mines some of which are still working in Idaho.

The mining industry is a very great one. It produces something that never existed before. It is not merely the turning of merchandise over from one to another at an increased price or profit. We ought to be very careful that we do not strike down any mining industry, and especially that of gold or silver or lead. If you stop the production of lead, as you would stop it by the proposed reduction in the duty on bullion, you will stop the production of the other metals that are mined with it, because they are by-products in the great lead-producing centers.

Mr. BRISTOW. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Kansas?

Mr. HEYBURN. Certainly.

Mr. BRISTOW. Do I understand that the \$50,000,000 that is paid for wages includes the wages paid in the gold mines, the silver mines, and all mines where lead is a by-product?

Mr. HEYBURN. Mr. President, it covers the wages that are paid in mines that are not producing, as well as mines that are producing. There is no mining camp in the United States in which the great majority of the mines are not in process of development; and every day, or two days, just as fruit drops from a tree, a mine will drop from the prospect to the actual fact. All camps are bringing new producing mines into the field. I undertake to say that a fourth of the mining industry in our State is working upon mines that are not actually producing, because it costs a great deal of money and time to develop a mine. Mines are not found easy of access. We have mines which I can recall that were years and years in developing. I know of one mine upon which more than \$300,000 was spent before it ever produced a dollar, but it has rolled out millions since. That is true of every camp.

Now, you must not apply the pay roll of \$50,000,000 to the producing mines alone, because quite a large portion are working upon mines that are not producing, but that will produce. We pay, in the county in which I live, railroad transportation on our mines every year something over \$6,700,000. That is another great field of employment; we provide for the men who are engaged in transportation. The farmers who are supplying our camps occupy and represent a territory that was developed because the mines were there. The great city of Spokane would not have existed as it is known to-day except for the mines of the Coeur d'Alene country. It furnished the millions and millions that have built those blocks which have no superior in this country. A beautiful and prosperous city was built out of the millions that have been taken out of our mines. Can the Senator just make a mental calculation? For the last twelve years, at least, the mines in that one county have produced not less than \$20,000,000, and that is only representative of the great mining interests of the country.

Now, unless the Senator has some other question to ask me, I am content to leave the lead question upon this statement.

Mr. ALDRICH. I ask that a vote may be taken on paragraph 179.

Mr. BRISTOW. I understood that we are going to have deliberation upon these paragraphs. The Senator from Rhode Island is in a great hurry.

Mr. BEVERIDGE. I understand, by looking at this comparative statement, that there is no change or amendment in para-

graph 179 at all. It is 1½ cents in the law, 1½ cents in the House bill, and 1½ cents in the Senate bill.

Mr. ALDRICH. There is a very important change in the paragraph.

Mr. BEVERIDGE. In paragraphs 180 and 181?

Mr. ALDRICH. There is a very important change in the paragraph.

Mr. BEVERIDGE. I should like to have the change in the paragraph explained. I understood there was no change in it.

Mr. KEAN. Read the next paragraph.

Mr. ALDRICH. It is a new paragraph entirely.

Mr. HEYBURN. Paragraph 180 is a new one.

Several SENATORS. "Vote!" "Vote!"

Mr. BEVERIDGE. Mr. President, I am trying to understand the bill. I heard yesterday and I have heard again to-day the request for a vote when Senators were trying to understand the bill. I see precisely the source from which it came.

The gentlemen who make that request do not have to fight any battles of their party when the bill comes up for consideration before the people. A great number of us have to do it, and we want to understand this bill. When Senators here are merely asking the chairman of the committee what the change is, I think it is not the wisest thing for Senators to call for a vote. We are trying to understand it.

Mr. ALDRICH. Let me say that there has been a considerable change in the language of paragraph 179.

Mr. BEVERIDGE. In view of what has occurred, I want to call the attention of the Senate to the statement made last evening that the change in the bill was made by the House "at the last minute," and that the reason why certain other changes were not made was because the House "did not have time."

Mr. ALDRICH. Oh, no.

Mr. GALLINGER. Or it was overlooked.

Mr. BEVERIDGE. Here is the statement of the Senator from Rhode Island in the Record. I read:

The Senator may not be aware of the fact that the House committee, up to the night before the bill was reported, had a duty upon lead ore of 1 cent a pound. At the last minute they increased it to one and a half, and did not change the rates on the product, for lack of time, or for some other reason.

Mr. GALLINGER. They overlooked it.

Mr. BEVERIDGE. I said, "Why did they not take the time?" They were making a bill for the American people. Why did they not send it here in a correct form? At a later stage the Senator made the same statement. There was no constitutional provision requiring that the House should pass the House bill in a hurry on the 10th day of April. It was reported to the Senate by the Senate committee two days later; and yet, although it is stated on record that the House did not make the necessary changes, because they had no time—

Mr. GALLINGER. "Or for some other reason."

Mr. BEVERIDGE. "Or for some other reason," pardon me.

Mr. GALLINGER. That is right.

Mr. BEVERIDGE. Although the Senate committee reported this very bill back with its thousands of items only two days later, yet when the change in the paragraph upon which we are voting is asked to be explained in the simplest way, the Senators who ask it are confronted with a call from the seats for a vote.

Now, that is not the way to enact a bill that must stand for the next ten years. That is not the way to satisfy Senators who must be responsible for their votes to the people, and not to the Senators who are in such a hurry.

Such a method will not speed the bill to a conclusion. It is not a Republican method, either. I myself have been listening to the Senator from Idaho [Mr. HEYBURN] with the keenest possible interest. He was making an excellent statement. I think he was making an impression upon Senators here who want nothing but the light, and who intend to vote as they may think right. We all want to follow the committees on any bill they report; but upon a bill which is the great business measure that affects every one of the 90,000,000 of our fellow-citizens for whom we are working here, we not only have the right, but it is the duty of every Senator to demand a full explanation, and especially is that true in view of the statement made by the Senator from Rhode Island last evening, that the House, which had no limitation of time upon its action, made a mistake, because it passed it "at the last minute."

Mr. ALDRICH. Mr. President, the Senator from Indiana, I suppose, must be aware, historically, of the fact that at the time the change was made the House had agreed to vote at a certain time.

Mr. BEVERIDGE. But why were they compelled to vote at a certain time?

Mr. ALDRICH. Because they agreed to do it. They had voted to do so.

Mr. BEVERIDGE. And why did they have to vote to do so? They were not bound to. Why did they not take time and complete their work?

Mr. HALE. They did not choose to do so.

Mr. BEVERIDGE. They did not choose, then, according to the statement of the Senator from Maine, to do the right thing. Perhaps they did do the right thing after all. But suppose they hurried so fast that they did not do the right thing. Let us not make the same mistake. Suppose we should conclude to vote, and suppose it should be found after we had so concluded that we had made the mistake that Senators say the House has made. The House did not intend to make the mistake. It is not to be supposed that the great popular branch of the Government intended to make the mistake. They made it inadvertently, if they made any mistake at all; they made it because of haste, as the Senator from Rhode Island says. Shall we make the same error here? Suppose the bill should be passed and we were to find that we also had been imprudent, that we also had voted too early, that we also had made a mistake, upon whose shoulders would that burden fall? It would not fall upon the shoulders of the Senators who, a moment ago, when the Senator from Kansas [Mr. Bristow] arose, asked from their chairs for a vote, thus trying to take him off his feet. Those Senators in the next campaign will not be on the battlefield.

Mr. GALLINGER. They may be.

Mr. BEVERIDGE. Some of them.

Mr. GALLINGER. The Senator from Indiana is not the only Senator who is on the battlefield.

Mr. BEVERIDGE. He is not. He is only an humble soldier in the ranks.

Mr. GALLINGER. But he never fails to advertise his wares.

Mr. BEVERIDGE. And they are Republican wares. What I do in advertising those wares is wearing out the best of my life for the success of my party, because I believe it stands for the welfare of the Nation; and I mean that it shall continue to stand for that.

Mr. GALLINGER. Yes; and some other lives were partly worn out before you appeared.

Mr. BEVERIDGE. That is quite true. I give them credit for it, but it is the day in which we live that is important. I expect, as other men expect, to be defending and advocating this bill in the thick of the political fight before the people; and, in view of that fact, we have a right to know, and we are going to know, the explanations for the changes. Looking at the comparative statement, I had supposed there was no change. The Senator from Rhode Island very properly said there was a change, not in the rate, but in the language. The Senator from Kansas was going to ask a question, and then the Senator from Rhode Island was asked, as chairman of the committee, what the language was which constituted the change, and yet we were met by a call from two or three Senators for a vote, when nobody excepting the members of the committee or those who had specially studied the question understood what we were voting about. I submit that that is not fair, and I am sure it is not prudent. I do not know how others stand, but I assume that we all stand just alike, that we wish to do merely this—that we wish to vote for the right thing as we see it. I concede that every Senator here is going to do that, and they must concede that all the rest of us want to do that. We are going to find out, if possible, what we are voting about, and no vote calling will prevent it. And above all, you are not going to take a Senator off his feet, as it was attempted to take the Senator from Kansas off his feet, by calling for a vote.

Now, unless the Senator from Kansas wishes to pursue his inquiry, I ask the chairman of the Committee on Finance to explain what the change is, because I did not know that there was any change.

Mr. ALDRICH. Mr. President, the Senate Committee on Finance recommend the striking out of all the lines of paragraph 179, from line 13 to line 19, and to insert the words:

Lead-bearing ore of all kinds, 1½ cents per pound on the lead contained therein.

Mr. HALE. Let us have a vote, Mr. President.

Mr. ALDRICH. That is the question now before the Senate.

Mr. BRISTOW. Mr. President, this is the third time that a vote has been called for on these paragraphs while I have been on my feet asking to get the recognition of the Chair. I am a new Member here, and possibly I have no right to be heard in this body; but I am here by the same constitutional authority as any man who has served here for thirty years; I have the same right to be heard on any paragraph in this bill as any man who occupies a seat upon this floor; and, with the help of what physical strength I have, I intend to be heard, unless I am out of order according to the rules of this body which govern its deliberations.

I was going to inquire, if I am in order, Mr. President, if the Senator from Idaho believes that the reduction of a small per cent in the duty on lead, which is a by-product of a great many of the ores, would destroy the mining business of Utah?

Mr. SMOOT. Mr. President—

Mr. BRISTOW. Or of Idaho, I should say.

Mr. SMOOT. Mr. President, I can answer the question, as far as Utah is concerned.

Mr. BRISTOW. I have no objection to the Senator from Utah or anybody else answering the question.

Mr. WARNER. Mr. President, may I answer the Senator from Kansas?

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Missouri?

Mr. BRISTOW. Certainly.

Mr. WARNER. Passing over from Idaho to the State in the Union that produces the greatest quantity of lead, the State of Missouri, I will say that in talking with men who know, men who are interested in this question more than they are interested as to who shall go into the thick of the political battle in the next campaign or who were in the thick of the battle of the last campaign, men who are home builders, men of intelligence, the universal expression comes from those men that if you strike down this rate of duty, you strike at that great industry. I think the honorable Senator from the State of Kansas will bear in mind that there is a portion of his own State across the border from Missouri that would be likewise affected.

Mr. SMOOT. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Utah?

Mr. BRISTOW. Certainly.

Mr. SMOOT. I should like to say to the Senator from Kansas that if we reduce this rate upon ore to a cent and a half a pound, it means the closing of the mines in the State of Utah. It means a loss to that State of 60,000 tons of lead yearly, at \$86 per ton, or \$5,160,000; 12,000,000 ounces of silver, at 50 cents, which would be \$6,000,000; 100,000 ounces of gold, at \$20 per ounce, or \$2,000,000; 12,000,000 pounds of copper, at 13 cents, or \$1,560,000, or a total of \$14,720,000.

Mr. HEYBURN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Idaho?

Mr. BRISTOW. Certainly.

Mr. HEYBURN. I should like to read to the Senator from Kansas a telegram from Topeka, Kans., which will shed some light upon this subject, in reply to one which I sent to the commissioner of mines of that State, asking for the number of men employed in lead mining, in which he advises me that there are employed in that State 10,000 coal miners, 2,000 lead and zinc miners, 300 salt and gypsum miners, and so forth. This telegram is signed by Frank Gilday, the mining inspector of the State. Therefore you have 2,000 lead miners in the State of Kansas depending upon this industry, with all that is dependent upon them.

Mr. BRISTOW. Mr. President, I am perfectly aware of the interest of the lead-mining business in Kansas, and I am not taking my position in regard to this bill without full knowledge of the interests involved in the State that I in part represent; but I wanted to get a few facts before the Senate, not bearing so much upon the duty on lead as upon the duty on white lead.

Mr. BEVERIDGE. We are not voting on that now.

Mr. BRISTOW. What interested me in the discussion of this schedule was the increase from the House bill of the duty on white lead and paints. I do not agree with the Senator that the duty on white lead should necessarily be increased over the provision of the House bill, because the provision in the House bill in regard to pig lead remains as it was. There is some confusion here. It seems that you have got either to attack the House provision on pig lead or lead ore, or vote for the Senate increase on white lead and paint.

Mr. BEVERIDGE. Not at all.

Mr. BRISTOW. We can sustain the House provision on lead ore and also sustain the House provision on white lead without doing any violence, in my judgment, to the lead industries of the United States.

It has not been my purpose to object to the provisions of the House in regard to the duty on lead ore and pig lead. The objection that I have offered here is to the increases which the Senate bill has made over the House bill in regard to these lead products or paint. I think, if the Senator from Idaho will examine carefully, he will find that lead is not the sole component of white lead, but that there are other ingredients in the commodity which we know as "white lead."

Mr. HEYBURN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Idaho?

Mr. BRISTOW. I do.

Mr. HEYBURN. If there are other ingredients, they are adulterations. White leads are adulterated, and there has been an effort made to secure legislation to prevent the adulteration of white lead, which has not yet been acted upon. White lead, commercially speaking, should be pure lead. Whenever it is not pure lead, it is because of adulterations that are put into it. There is nothing else that belongs there but lead.

Mr. BRISTOW. Now, I want to submit—

Mr. BEVERIDGE. Will the Senator let me at this point, so that we can get this thing cleared up, make a suggestion?

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Indiana?

Mr. BRISTOW. Certainly.

Mr. BEVERIDGE. Permit me to ask the Senator from Rhode Island a question. I understand from the conversation which we had that the amendment in paragraph 179 is merely taking that one particular item there out of several items that were placed in one paragraph in the House bill, and then fixing the same rate of duty that the House bill fixed and as it is in the present law?

Mr. ALDRICH. That is correct.

Mr. BEVERIDGE. That being true, there is absolutely no change from the House bill in the Senate committee bill—no increase or anything else?

Mr. ALDRICH. That is so.

Mr. BEVERIDGE. That is correct; and the other items were then put into paragraph 180.

Mr. ALDRICH. Yes.

Mr. BRISTOW. We do not produce as much lead in this country as we consume. We use our entire production. The Statistical Abstract, which I have here on my desk, states that we produced lead in the United States in 1904 aggregating 614,000,000 pounds.

Mr. CLAPP. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Minnesota?

Mr. BRISTOW. Certainly.

Mr. CLAPP. The Senator is now upon a question that I am waiting to ask some one about. It may be a fad of mine, but I have an idea that the relative production here and what is imported is important in determining whether an industry requires protection. Does the statement that the Senator makes apply to lead ore or to lead bullion?

Mr. BRISTOW. To both.

Mr. CLAPP. Is there any separation in the figures?

Mr. LODGE. Yes; they are separated.

Mr. BRISTOW. You will find on page 146 of the Statistical Abstract a statement as to the amount of lead we produce, of course it must be bullion in the end.

Mr. CLAPP. Yes.

Mr. BRISTOW. It is the sum total of our production of lead in the United States.

Mr. CLAPP. Will the Senator please give that?

Mr. BRISTOW. It is on page 146 of the Statistical Abstract.

Mr. CLAPP. No; the amount.

Mr. BRISTOW. I will give it to you for four years. In 1904 the amount was 614,000,000 pounds; in 1905 it was 604,000,000 pounds; in 1906—

Mr. BORAH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Idaho?

Mr. BRISTOW. Certainly.

Mr. BORAH. Mr. President, I do not understand what particular kind of lead the Senator from Kansas is referring to.

Mr. BRISTOW. The production of lead—all the lead that we produce in the United States.

Mr. BORAH. I thought the Senator was speaking of importations of lead.

Mr. BRISTOW. No; the production of lead. I will repeat. In 1904 the amount was 614,000,000 pounds; in 1905 it was 604,000,000 pounds; in 1906 it was 700,000,000 pounds; and in 1907 it was 730,000,000 pounds. That is the lead production of the United States for those years.

Mr. ALDRICH. Is that lead ore or lead bullion?

Mr. BRISTOW. Lead bullion—the entire production of lead—showing a progressive increase in the amount of lead which we produce per annum.

Mr. CLAPP. Will the Senator pardon an interruption?

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Minnesota?

Mr. BRISTOW. Certainly.

Mr. CLAPP. It seems to me that that fails to establish the essential facts upon which to base a comparison. The table which we have shows a large importation of lead-bearing ores.

If there are any figures that show how much lead we mine in this country, bearing upon the question of the maintenance of these mines under the old tariff and the probability of their being destroyed, that is a question about which I should like to ask the Senator from Kansas or some other Senator.

Mr. BRISTOW. If the Senator will bear with me, I will give him the exact facts before I get through.

We mined and produced last year in the United States 730,000,000 pounds of lead. I have given the amount produced in the United States mines for four years. Now I will give the amount imported into the United States for the same period of time as shown by the same authority, the Statistical Abstract, page 436. We imported in 1904 222,000,000 pounds of lead; in 1905, 217,000,000 pounds; in 1906, 185,000,000 pounds; and in 1907, 150,000,000 pounds, showing a progressive decrease in the amount of lead that we import each year.

Mr. CLAPP. Mr. President, if the Senator will pardon me, those figures are materially different from the figures in the estimate on our desks as I read them. This table does not show what might have been imported and again exported. Do I understand the chairman of the committee in regard to that to say—

Mr. ALDRICH. What were the importations given by the Senator from Kansas?

Mr. BRISTOW. The importations for what year?

Mr. ALDRICH. The exportations.

Mr. BRISTOW. We do not export lead.

Mr. ALDRICH. What?

Mr. BRISTOW. We do not export lead, except some articles that are manufactured. We do not export raw lead. We only exported \$11,000 worth last year.

Mr. ALDRICH. We exported in 1906, 101,351,951 pounds.

Mr. BRISTOW. Of pig lead?

Mr. ALDRICH. Lead in ore. The importations of lead into the United States are for smelting in this country. The lead is then exported and the drawback secured.

Mr. BRISTOW. Well, you may import and have the drawback—

Mr. ALDRICH. That is what these imports are. Our imports of lead ore are smelted in New Jersey and other States on the coast and exported, and the drawback is paid on them.

Mr. KEAN. They are imported in bond.

Mr. ALDRICH. Imported in bond.

Mr. LODGE. The figures do not appear here in this table.

Mr. BRISTOW. The figures which the committee have given the Senate show that for 1907 the exports of "pigs and bars (dross), bullion, molten and old refuse lead, run into blocks and bars, and old scrap lead fit only to be remanufactured, and dross," amounted to \$11,054.

That is the value of the exports of this product which the figures of the committee state for 1907, and I made the statement which I did upon the authority of this table.

Mr. LODGE. Where does the Senator find the exports given?

Mr. BRISTOW. The exports are given in the fourth column.

Mr. LODGE. I have not the same statement as the Senator has.

Mr. WARNER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Missouri?

Mr. BRISTOW. Certainly.

Mr. WARNER. I invite the Senator's attention to the report of the United States Geological Survey for 1907, showing the exportation of leads, as follows:

Lead and manufactures of lead of domestic production exported: 1900, \$459,571; 1901, \$624,534; 1902, \$696,010; 1903, \$491,362; 1904, \$616,126; 1905, \$667,861; 1906, \$775,776; 1907, \$956,078.

Mr. BRISTOW. I do not contend that manufactured lead is not exported in the shape of articles of which it composes a part. I am speaking of the lead itself from which the articles are made.

Mr. HEYBURN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Idaho?

Mr. BRISTOW. Certainly.

Mr. HEYBURN. I can give the Senator the figures on the question of the imports and exports of lead for the year 1907. We imported lead in ore and furnace production, to be smelted and refined in bond, 70,538 tons. That came in in bond. We exported from that same product the same year 51,000 tons, and we kept in the country of that which we had imported 28,333 tons. We returned from bond nearly two-thirds of it, and kept about one-third of that which had come in under the pledge of the bond for the payment of the duty. That is the way it has

been running year after year. Ore is sent to this country to be smelted in bond, and it is ostensibly intended to take the bullion out again, but more or less of it stays here.

The Senator was speaking about the consumption of lead produced in this country in 1907. In 1907 we consumed in this country 230,000 tons of lead of our own production.

Mr. BRISTOW. I have no contention with the Senator from Idaho. It simply goes to establish the fact and to confirm the declaration I made that we use more lead here than we mine.

Mr. NELSON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Minnesota?

Mr. BRISTOW. Certainly.

Mr. NELSON. I desire to read here a brief paragraph from Notes on Tariff Revision, compiled by the House of Representatives. It contains this statement on page 226:

The principal lead-bearing ores are galena, copper ore, nonargentiferous lead and zinc ores, and gold and silver ores. Galena, the principal ore employed for the production of lead, is found extensively, more or less associated with other ores, in various parts of the United States, Great Britain, Germany, Spain, and other European countries. In this country the production of lead has become a very important feature of the world's industries. Lead production in the United States in 1905 amounted to about 300,000 short tons, which is about the average yearly output. Notwithstanding this large product, it is not enough lead to supply the home demand, the lack being supplied by importations of the ore and Mexican base bullion. This country also exports lead ore, in 1907 the exportations of lead ore and base bullion (par. 182) reaching the total of 80,638,497 pounds, valued at \$1,970,577. Of this exportation the United Kingdom took 37,649,720 pounds, Germany coming next with 17,872,543 pounds, and Japan next with 6,390,874 pounds.

Importations: Quantity, 29,738,375 pounds lead contents; value, \$566,057.15; duties, \$446,075.70; equivalent ad valorem, 78.80.

We imported 127,196,540 pounds of lead in ore and base bullion (par. 182) in 1907, valued at \$3,352,534. Of this total Mexico furnished 165,453,896 pounds and Canada 21,205,023 pounds.

While I am on my feet—I do not intend to delay this matter longer than necessary—I desire to call attention, if the Senator will permit me—

Mr. BRISTOW. Certainly.

Mr. NELSON (continuing). To one matter in paragraph 180. I think the most inveterate standpatter concedes that in all events we ought to adjust the inequalities of the tariff. I call your attention to the words beginning in line 19, on page 60:

And old scrap lead, fit only to be remanufactured.

Now, why should that which has to be remelted and remanufactured be put in the same class as lead bullion or lead in pig? Why does not that fairly and in equity belong in the preceding paragraph, 179?

Mr. ALDRICH. It is lead in another form. It is in exactly the terms of the present law.

Mr. NELSON. I concede it is in the present law.

Mr. HEYBURN. I can answer the Senator.

Mr. NELSON. It speaks of scrap lead fit only to be remanufactured, and that is put in the same class as pig lead or lead bullion. It is an inequality and is unfair.

Mr. LODGE. It is exactly the same.

Mr. NELSON. It has to be melted over again; worked over again.

Mr. LODGE. So has pig lead for industrial use.

Mr. HEYBURN. I can explain that. It is not an unfamiliar subject. As suggested by the Senator from Massachusetts—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Idaho?

Mr. BRISTOW. I do.

Mr. HEYBURN. I beg pardon of the Senator from Kansas; I should have asked his consent.

As suggested by the Senator from Massachusetts, it has to be worked over, just as bullion has to be worked over, to apply it to any use. Bullion in pigs is not in shape to be used; neither is scrap lead. There is nothing but lead in it, but it has to be worked over, just as bullion has to be worked into the shape in which you are going to use it.

Mr. NELSON. Lead in pig and bars is in the paragraph.

Mr. HEYBURN. They are lead.

Mr. NELSON. But this is put in the same paragraph.

Mr. HEYBURN. If you want to make lead pipe, you work over the bullion for that purpose. If you want to make lead troughs or anything of usable shape, you have to work it over.

Mr. BRISTOW. I have not the slightest desire to suggest any changes in this schedule or any changes in any of these paragraphs that would work a hardship on any legitimate American industry or deprive any American laborer of just and reasonable and liberal compensation for his work.

Mr. McCUMBER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from North Dakota?

Mr. BRISTOW. Certainly.

Mr. McCUMBER. I wish to ask the Senator from Kansas if he does not think the figures he has given upon the production and importation are themselves evidence of this being a reasonable tariff? I assume that the Senator will agree with me that the American mills and factories and mines should have, as near as possible, without injustice to the consumer, the American field of production. If the foreigner exports to this country nearly one-third—and that is about what it would be, if I correctly understood the Senator's figures—

Mr. BRISTOW. About one-fifth.

Mr. McCUMBER (continuing). Is not that one-third or one-quarter a sufficient regulator and a sufficient amount to indicate that the tariff is not too high? Because if the price to the American consumer was too high, there is lead enough produced in the world to immediately stock all the markets. The very fact that one-third of it is coming into this country seems to me to be almost conclusive evidence that the tariff is not so high that an exorbitant price can be charged in this country, or a prohibitive price, because if it were exorbitant—and it can only be exorbitant when it is prohibitive—the importations would immediately go up to the full extent of the consumption in this country, because, as I state again, there is lead enough produced in the world to meet our demands.

Mr. BACON. Will the Senator from Kansas permit me for a minute while I correct the figures of the Senator from North Dakota?

Mr. BRISTOW. Certainly.

Mr. BACON. I have before me the Statistical Abstract of 1907, which gives the importations for 1906. The document furnished by the Finance Committee, I presume, gives the figures for last year. Although they are not exactly accurate in comparison, they are approximately so. Upon page 146 of the Statistical Abstract the Senator will find that in 1906 there were produced in the United States 350,153 tons of lead, and according to the document furnished to us by the committee the importations were only a little over 27,000 tons. So instead of there being a third, it is nearer one-fifteenth.

Mr. McCUMBER. I took the figures given by the Senator from Kansas himself, and I think they amount to nearly that. But right along that line—

Mr. BACON. I have them right here.

Mr. McCUMBER. It is not a question exactly whether it is a third or a quarter or a tenth or what it may be. The question to my mind is whether or not, under all the conditions, the tariff is low enough to still allow importations; because, if it does allow any importations, it shows us a source of supply that will immediately come in and grow enormously if the domestic price is raised above what is reasonable and just. It is not a question so much of how much the importation is as it is a question whether they can import profitably under the present system; and if they can, that importation is a sufficient regulator of our home prices, and will at all times keep the price down to a reasonable compensation.

Mr. BAILEY. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Texas?

Mr. BRISTOW. All I ask is to get at it after a while. I am glad to hear the gentleman.

Mr. BAILEY. If I understand the statement of the Senator from North Dakota—and I think I do, and I attach the proper weight to it, because he is a member of the Finance Committee, which has prepared this bill—that statement, in essence, is that whenever there is any of a given article imported the duty ought to be raised, which is only another way of saying that every duty ought to be prohibitory.

Mr. McCUMBER. That is just the reverse of my statement. My statement is that where there is a considerable importation, such a percentage as will indicate that the product can be sold in this country under ordinary circumstances at reasonable compensation, it is pretty strong evidence that the rate is sufficiently low, because if the rate were excessive, it would keep it out entirely; and as long as it can flow into this country—not under extraordinary conditions, but generally—it is pretty good evidence, to me at least, that our rates are not prohibitive and that they are not too high.

Mr. BACON. I should like to ask the Senator—

Mr. McCUMBER. I want to say here, taking the price of lead, that a little difference of a quarter of a cent a pound or an eighth of a cent a pound might make that which is not very profitable for importation to-day exceedingly profitable under the new rule. Then it could come in and could drive out our own product. I am willing—I can say in closing, for I do not want to take too much of the time of the Senator from Kansas—to take the word of the Senator from Idaho and the Senator from Utah as to lead conditions in their country, in addition

to this evidence, showing to my mind that a reduction will injure our industries in this country.

Mr. BAILEY. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Texas?

Mr. BRISTOW. Certainly.

Mr. BAILEY. According to the statement which the Senator from North Dakota now makes, I did misunderstand the statement which he first made. As I understood it then, he was seeking to justify an increase of duty upon the ground that importations had occurred under the existing duty, whereas as I now understand the Senator he simply uses the fact that importations have occurred under the existing duty as an argument for its maintenance and not as an argument for its increase. Am I right?

Mr. McCUMBER. The Senator is right—not as an argument for its increase, as it might be, if there were practically no importations, an argument for its decrease. But there are enough importations to indicate it is not too high.

Mr. BAILEY. I very cheerfully withdraw the criticism I first made.

Mr. ALDRICH. Mr. President, I am exceedingly anxious to get a vote on this first proposition, and there is a desire to have a short executive session; and if it would not inconvenience the Senator from Kansas, I should like to have a vote on paragraph 179, leaving paragraph 180 to go over until to-morrow, to be open for general discussion.

Mr. BRISTOW. I should like to complete my remarks. I was in the middle of my observations. I will get through in a little while, if I am not interrupted, so far as this paragraph goes.

Mr. STONE. If the Senator will pardon me, we can not finish this item by 5 o'clock. If the Senator from Rhode Island expects the Senate to adjourn then, he may as well understand now that the paragraph will have to go over until to-morrow.

Mr. ALDRICH. Then the Senator from Kansas perhaps can go on until 5 o'clock, and we can then have a short executive session.

Mr. BRISTOW. Referring to the suggestion of the Senator from Georgia as to the figures, I secured these figures from the Statistical Abstract. It is given there in tons. I have reduced it to pounds in order that it may be more easily compared. The Statistical Abstract gives it only down to the year 1906. I telephoned to the Geological Survey and secured the figures from it for 1907 on the production. The importations are given in the Statistical Abstract, but the production for 1907 is not given in the Statistical Abstract. It is given in the Statistical Abstract only up to 1906.

Mr. BACON. In those figures, as I stated, are, in tons, 350,153.

Mr. BRISTOW. That is right.

Mr. BACON. And the importations as shown in pounds by this document, furnished us by the Finance Committee, reduced to tons, make 27,235 tons.

Mr. BRISTOW. Probably; I did not reduce it.

Mr. BACON. Three hundred and fifty thousand one hundred and fifty-three tons produced and 27,235 tons imported.

Mr. SMOOT. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Utah?

Mr. BRISTOW. Certainly.

Mr. SMOOT. In answer to the Senator from Georgia I wish to say that the importations for 1907 are given in two classes.

Mr. BACON. I have added them all up together.

Mr. SMOOT. If it is 27,000 tons, it is not correct, because the importations of lead contents were 29,738,375 pounds, which is about 15,000 tons, and the importations of lead in ore and base bullion were 127,196,540 pounds, which, in round numbers, would be 63,000 tons, making a total for both of 78,000 tons.

Mr. BACON. Without detaining the Senate, I will state that I added up the figures found on page 21 under paragraphs 179 and 180. They amount to 54,470,773 pounds. That reduced to tons makes 27,235.

Mr. SMOOT. I obtained the figures from the Treasury Department, showing absolutely the amount received and the importations.

Mr. BRISTOW. Referring to the inquiry of the Senator from North Dakota, I will say that I am in hearty accord with the views which he expressed here the other day that a tariff should not be levied on any of our great natural resources that are capable of exhaustion in any reasonable length of time; but since it appears that the lead-mining industry has been nurtured by a protective-tariff duty of 1½ cents, and since the House committee thought it was necessary in the interest of that industry to keep that duty where it was, it has not been

my purpose to offer an amendment to the bill reducing it below the rate agreed upon by the House committee and the Committee on Finance as far as lead bullion or lead ore goes, but the thing I have objected to is the duty on paints being increased over the House provision.

Mr. LODGE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Massachusetts?

Mr. BRISTOW. Certainly.

Mr. LODGE. I merely wish to ask the Senator a question just at this point. A duty is placed on the raw material of paints—that is, on the lead ore. If you do not give a sufficient differential on the higher grade, the more advanced manufacture, whether it is bullion or whether it is white lead, the result is that lead comes in in the more advanced form. It not only drives out its competitor of white lead or bullion, but it drives out the use of the less advanced form. If you put a duty on lead ore and make white lead free, you will close every lead mine in the United States.

Mr. BRISTOW. I did not suggest that lead bullion should be put on the free list. The Senator misunderstood me.

Mr. LODGE. I was only using that as an illustration of my meaning. If you put the duty below a certain rate, you run the risk of bringing lead in in the more advanced form of manufacture. You must have the rates on the higher form of manufacture higher than the rate on the raw material.

Mr. BRISTOW. Every cent that is put upon a ton of lead in the form of duty increases the cost of lead products to the American people, because we have to import it. That is true.

Mr. President, the duty on a product of lead, however, need not be any higher than is necessary to protect the labor employed in the manufacture of that product of lead, whatever it is. The price of white lead in the United States is a great deal higher than it is in Canada. There is no importation practically of white lead. Only about one twenty-fifth per cent of the white lead that we use is imported, while one-fifth of the lead bullion that we use is imported.

So it is clearly apparent that a reduction in the duty on white lead will not encourage importations of lead as white lead. It is not necessary. The conclusions that the Committee on Finance have come to—if I may be permitted to disagree with them—are not warranted. The House committee had the proper conception of what the duty on white lead should be. If the importations of white lead were equivalent in per cent to the importations of lead bullion, then the suggestion of the Senator from Massachusetts might have weight. But they are not. We import one-fifth of the lead bullion we use; we import only one twenty-fifth of the white lead we use.

Mr. BRIGGS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from New Jersey?

Mr. BRISTOW. Certainly.

Mr. BRIGGS. I should like to ask if a great deal of the bullion that is imported is not manufactured into white lead in this country, which accounts for the smaller relative percentage of imports?

Mr. BRISTOW. That may be; but when white lead is selling for 6½ cents a pound in Kansas and 4 cents a pound across the line in Canada, it makes a difference of 2½ cents a pound in the amount the American consumer is paying as compared with the amount the Canadian is paying.

I want the differential rates made to the very minimum that will protect the legitimate wages of the men who are employed in the manufacture of white lead. I do not conceal the fact that I am standing here trying, in my feeble way, to represent the interests of the people who sent me here to represent them. If I can remove a part of the taxes that are not necessary on a commodity that every family in my State uses, I think it is my duty to do it. That is the reason why I have trespassed on the patience of the Senate this afternoon. I am willing to yield the floor, except that I want to have something more to say to-morrow in regard to white lead.

Mr. ALDRICH. I ask unanimous consent that we may take a vote on paragraph 179 at this time.

Mr. BEVERIDGE. At what time?

Mr. ALDRICH. Now; at this moment.

Mr. BEVERIDGE. If we are going to take a vote on it now, then I have, perhaps, about ten minutes' remarks to make or perhaps longer, because if we have got to vote on this subject right now, then I have to vote on the showing that has been made up to this hour. I am ready to do that, but I have got to explain my vote. I think we can vote within twenty minutes to-morrow.

Mr. ALDRICH. The trouble is that if this question is reopened to-morrow, it will probably go on for half the day. The

next paragraph will give an opportunity for all the speeches that can be made on the subject. I would be glad to have the vote taken on the first paragraph to-night.

Mr. BEVERIDGE. I have found on examination that the first paragraph—that is, paragraph 179—and paragraph 180 involve precisely the same thing.

Mr. ALDRICH. I hope the Senator from Indiana will let a vote be taken on paragraph 179.

Mr. BEVERIDGE. Certainly; and I thought it would be done by unanimous consent, and there would not even be a vote against paragraph 179, until I examined and found that paragraphs 179 and 180 involve precisely the same issue. At least that is the way I look at it now.

For example, in answer to my question as to what the change in paragraph 179 meant, the Senator said that it simply removed one item that the House put in and fixed it at 1½ cents a pound; that it was to be satisfactory, because there was no change; but if we were to vote to sustain it, as I had intended to do, that would leave out all the rest, and we would come to-morrow to vote on paragraph 180. If we voted not to sustain paragraph 180, which is my present inclination without further light, then the whole schedule is disarranged, and the only thing we fix any duty at all on is lead-bearing ore of all kinds, 1½ cents per pound on lead contained therein.

In view of the fact that the whole issue is contained in a vote upon paragraph 179, I should vote instantly to sustain paragraph 179, if it did not also involve paragraph 180, for paragraph 179 does not raise the House rates and paragraph 180 does raise the House rates. They are both combined. That is the trouble.

Mr. ALDRICH. I am anxious that every Member of the Senate shall have adequate information upon this subject.

Mr. BACON. I can not hear what the Senator says.

Mr. ALDRICH. I am very anxious that every Senator interested in this question should have adequate information upon this subject.

I therefore move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After fifteen minutes spent in executive session the doors were reopened, and (at 5 o'clock and 13 minutes p. m.) the Senate adjourned until to-morrow, Friday, May 7, 1909, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate May 6, 1909.

COLLECTOR OF CUSTOMS.

Edward T. Marvel, of Massachusetts, to be collector of customs for the district of Fall River, in the State of Massachusetts, in place of James Brady, deceased.

SURGEONS IN THE PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Passed Asst. Surg. Ezra K. Sprague to be surgeon in the Public Health and Marine-Hospital Service of the United States, to rank as such from May 1, 1909. To fill an original vacancy.

Passed Asst. Surg. Rupert Blue to be surgeon in the Public Health and Marine-Hospital Service of the United States, to rank as such from May 1, 1909. To fill an original vacancy.

Passed Asst. Surg. Charles H. Gardner to be surgeon in the Public Health and Marine-Hospital Service of the United States, to rank as such from May 1, 1909. To fill an original vacancy.

Passed Asst. Surg. James H. Oakley to be surgeon in the Public Health and Marine-Hospital Service of the United States, to rank as such from May 1, 1909. To fill an original vacancy.

UNITED STATES CIRCUIT JUDGE.

William M. Lanning, of New Jersey, to be United States circuit judge for the third judicial circuit, vice George M. Dallas, resigned.

UNITED STATES DISTRICT JUDGE.

John Rellstab, of New Jersey, to be United States district judge for the district of New Jersey, vice William M. Lanning, nominated for appointment as United States circuit judge for the third judicial circuit.

UNITED STATES MARSHAL.

Harry J. Humphreys, of Nevada, to be United States marshal for the district of Nevada, vice Robert Grimmon, whose term expired December 12, 1908.

PROMOTION IN THE ARMY.

COAST ARTILLERY CORPS.

Second Lieut. Allison B. Deans, jr., Coast Artillery Corps, to be first lieutenant from May 4, 1909, vice Jones, dismissed.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 6, 1909.

ASSOCIATE JUSTICE OF THE SUPREME COURT OF HAWAII.

Antonio Perry to be associate justice of the supreme court of the Territory of Hawaii.

CIRCUIT JUDGE OF HAWAII.

William L. Whitney to be second judge of the circuit court of the first circuit of the Territory of Hawaii.

POSTMASTERS.

MASSACHUSETTS.

Henry K. Bearse, at Harwich, Mass.

SOUTH DAKOTA.

Frank E. McLaughlin, at Geddes, S. Dak.

Sumner E. Wood, at White, S. Dak.

TEXAS.

W. K. Davis, at Gonzales, Tex.

INJUNCTION OF SECRECY REMOVED.

The injunction of secrecy was removed on May 6, 1909, from an agreement between the United States and Russia, to regulate the position of corporations or stock companies and other commercial associations, signed at St. Petersburg on June 25, 1904. (Ex. D, 58th Cong., 3d sess.)

HOUSE OF REPRESENTATIVES.

THURSDAY, May 6, 1909.

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

The Journal of the proceedings of Monday, May 3, was read and approved.

QUESTION OF PERSONAL PRIVILEGE.

Mr. MURPHY. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. MURPHY. Mr. Speaker, there appeared in the papers of my State yesterday morning, and also in the papers here in Washington, a telegram from Frank Hagerman, attorney for 18 railroads in the State of Missouri, which I will ask the Clerk to read. I will state in this connection, in order to verify whether that telegram was sent or not, as stated in the article, that I called at the Department of Justice yesterday and asked whether it had been received, and they said that it had.

The Clerk read as follows:

KANSAS CITY, Mo., May 4, 1909.

Frank Hagerman, attorney for the 18 roads interested in the Missouri rate fight, sent this message to George W. Wickersham, Attorney-General of the United States, to-day:

"Representative MURPHY's resolution about the Missouri Rate case is an outrageous tissue of misrepresentation by one who has no knowledge of the facts. The national character and reputation of these judges and their standing here refute the charges, but as the newspapers say the matter has been presented to you, I want you and the President to be assured that the record clearly shows.

"Every preliminary injunction relative to freight rates was made with the State's consent. The injunction against passenger rates was only granted at final hearing.

"The State had every facility accorded and every courtesy extended. I am glad to say that the state officers publicly repudiate responsibility of the unwarranted attack."

Mr. MURPHY. Mr. Speaker, on May 3 I introduced into this House a resolution asking for an investigation of the conduct of Judges McPherson and Phillips in regard to the 2-cent passenger-fare litigation in Missouri and the maximum freight-rate law of that State. I also asked that the conduct of Judge Phillips generally, as judge of the western district of Missouri, be investigated. That resolution, by my direction, was referred to the Committee on Rules, and it empowers the Speaker to appoint a committee to make that investigation.

I do not intend to make any criticism of the Committee on Rules. Since I introduced that resolution upon investigation I have doubts as to whether it has authority to pass upon that matter, and whether or not a point of order would lie to their report when it came in. I shall investigate this further and present it in my own way and good time. But this resolution, Mr. Speaker, in the preamble reviews the rate situation in that State. In the first part of the year 1905 the general assembly of Missouri passed what was known as the "maximum freight-rate law," which reduced freight rates on commodities in that State.

Without notice, the railroad companies, represented by Frank Hagerman and their general counsel, went into the federal court at Kansas City and procured an injunction against their putting